



STATE STATUTES
CURRENT THROUGH JULY 2019

Parental Substance Use as Child Abuse

To find statute information for a particular State, go to <https://www.childwelfare.gov/topics/systemwide/laws-policies/state/>.

Substance use disorders—including abuse of drugs or alcohol—that affect parents and other caregivers can have negative effects on the health, safety, and well-being of children. All States, the District of Columbia, Guam, and the U.S. Virgin Islands have provisions within their child protection statutes, regulations, or policies that address the issue of substance use by parents.¹ One major area of concern is responding to the care and treatment needs of substance-exposed infants. Another major concern is addressing the harm that a child of any age can suffer when the parents' use of alcohol or other substances leads to neglect of the child or the child is exposed to illegal drug activity. For this publication, statutes, regulations, and policies regarding requirements for responding to reports of

children affected by parental substance use were collected from across all States, the District of Columbia, and the U.S. territories, and an analysis of the information informs the discussion that follows.

WHAT'S INSIDE

Substance-exposed newborns

Children exposed to parental substance use

Full-text excerpts of State laws

¹ Laws in American Samoa, the Northern Mariana Islands, and Puerto Rico do not currently address the issue of children affected by parental substance use.

SUBSTANCE-EXPOSED NEWBORNS

The Child Abuse Prevention and Treatment Act requires States to operate programs relating to child abuse and neglect that include the following:

- Policies and procedures (including appropriate referrals to child protection service systems and for other appropriate services) to address the needs of infants born with and identified as being affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder, including a requirement that health-care providers involved in the delivery or care of such infants notify the child protective services system of the occurrence of such condition in such infants²
- The development of a plan of safe care for the infant born and identified as being affected by substance use or withdrawal symptoms or fetal alcohol spectrum disorder to ensure the safety and well-being of such infant following their release from the care of health-care providers, including through addressing the health and substance use disorder treatment needs of the infant and affected family or caregiver³

The requirement to respond to the needs of substance-exposed newborns appears in the laws and policies of many States. The child abuse and neglect reporting laws in approximately 26 States and the District of Columbia specifically require health-care providers to report when they treat infants who show evidence at birth of having been exposed to drugs, alcohol, or other controlled substances.⁴ In 23 States and the District of Columbia, prenatal exposure to controlled substances is included in definitions of child abuse or neglect in civil statutes, regulations, or agency policies.⁵ Illinois, Minnesota, North Dakota, Oregon, and Wisconsin require mandated reporters to report when they suspect that pregnant women are abusing substances so that the women can be referred for treatment. In Rhode Island, a report of substance use by a pregnant woman may be made, but an investigation will be conducted only if there is an allegation of abuse and/or neglect of the newborn or other children in the home.

In many States, the actions that child welfare agencies must make in response to reports of substance-exposed infants are more focused on providing treatment and support so that the infants are able to stay with their mothers. For example, 13 States and the District of Columbia require the agency to complete an assessment of needs for the infant and for

² 42 U.S.C. § 5106a(b)(2)(B)(ii)-(iii), as amended by the Comprehensive Addiction and Recovery Act of 2016 (P.L. 114-198). For more information on these issues as well as training resources and technical assistance, visit the website of the National Center on Substance Abuse and Child Welfare at <https://www.ncsacw.samhsa.gov/default.aspx>.

³ For more information on the requirements for plans of safe care, see the Child Welfare Information Gateway publication *Plans of Safe Care for Infants With Prenatal Substance Exposure and Their Families* at <https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/safecare/>.

⁴ The word "approximately" is used to stress the fact that States frequently amend their laws. This information is current through July 2019. Alaska, Arizona, Arkansas, California, Georgia, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nevada, New Jersey, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, Utah, Virginia, and Wisconsin have enacted specific reporting procedures for substance-exposed infants.

⁵ Arizona, Arkansas, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Louisiana, Maryland, Minnesota, New Jersey, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, and Wisconsin

the infant's family and to make a referral to appropriate services.⁶

CHILDREN EXPOSED TO PARENTAL SUBSTANCE USE

There is increasing concern about the negative effects on children when parents or other members of the household use alcohol or drugs (either legal or illegal) or engage in illegal drug-related activity, such as the manufacture of methamphetamines in home-based laboratories. Many States have responded to this problem by expanding civil definitions of child abuse or neglect to include this concern. Specific circumstances that are considered child abuse or neglect in some States include the following:

- Manufacturing a controlled substance in the presence of a child or on premises occupied by a child⁷
- Exposing a child to, or allowing a child to be present where, chemicals or equipment for the manufacture of controlled substances are used or stored⁸

- Selling, distributing, or giving drugs or alcohol to a child⁹
- Using a controlled substance that impairs the caregiver's ability to adequately care for the child¹⁰
- Exposing a child to the criminal sale or distribution of drugs¹¹

Approximately 33 States and the Virgin Islands address in their criminal statutes the issue of exposing children to illegal drug activity.¹² For example, in 19 States the manufacture or possession of methamphetamine in the presence of a child is a felony,¹³ while in 16 States, the manufacture or possession of any controlled substance in the presence of a child is considered a felony.¹⁴ Twelve States have enacted enhanced penalties for any conviction for the manufacture of methamphetamine when a child was on the premises where the crime occurred.¹⁵

Exposing children to the manufacture, possession, or distribution of illegal drugs is considered child endangerment in 14 States.¹⁶ The exposure of a child to drugs or drug

⁶ California, Connecticut, Delaware, Illinois, Maryland, Michigan, Minnesota, Missouri, Nevada, New Jersey, Oklahoma, Pennsylvania, and Virginia

⁷ In 13 States (Arizona, Colorado, Indiana, Iowa, Montana, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Wisconsin) and the District of Columbia

⁸ In seven States: Arizona, Arkansas, Iowa, New Mexico, North Dakota, Oklahoma, and Oregon

⁹ In seven States (Arkansas, Florida, Hawaii, Illinois, Iowa, Minnesota, and Texas) and Guam

¹⁰ In 13 States: California, Delaware, Florida, Iowa, Kentucky, Minnesota, New York, Oklahoma, Rhode Island, Tennessee, Texas, Vermont, and West Virginia

¹¹ In five States (Iowa, Montana, Oklahoma, South Dakota, and Virginia) and the District of Columbia

¹² Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Utah, Virginia, Washington, West Virginia, and Wyoming currently address the issue in their criminal statutes.

¹³ California, Colorado, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Missouri, Montana, Nebraska, New Hampshire, Ohio, Pennsylvania, South Carolina, Virginia, Washington, West Virginia, and Wyoming

¹⁴ Alabama, Arizona, California, Colorado, Hawaii, Idaho, Indiana, Kentucky, Louisiana, Minnesota, Mississippi, New Mexico, North Dakota, Ohio, Oregon, and Utah

¹⁵ Arkansas, California, Hawaii, Indiana, Kansas, Mississippi, Montana, North Carolina, Ohio, Utah, Virginia, and Washington

¹⁶ Alabama, Alaska, Arizona, Delaware, Illinois, Iowa, Kansas, Kentucky, Minnesota, Mississippi, Missouri, Montana, Washington, and Wyoming

paraphernalia is a crime in eight States.¹⁷ In North Carolina and Wyoming, selling or giving an illegal drug to a child by any person is a felony.

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

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¹⁷ Alabama, Arkansas, Montana, Nebraska, New Hampshire, North Dakota, South Carolina, and Utah

ALABAMA

Current Through July 2019

Citation: Ala. Code § 13A-12-218

A person commits the crime of unlawful manufacture of a controlled substance in the first degree if he or she manufactures a controlled substance enumerated in schedules I to V, inclusive, or possesses precursor substances in any amount with the intent to unlawfully manufacture a controlled substance, and two or more of the following conditions occurred in conjunction with that violation:

- Possession of a firearm
- Use of a booby trap
- The illegal possession, transportation, or disposal of hazardous or dangerous materials, or while transporting or causing to be transported materials in furtherance of a clandestine laboratory operation, created a substantial risk to human health or safety or a danger to the environment
- A clandestine laboratory operation that was to take place or did take place within 500 feet of a residence, place of business, church, or school
- A clandestine laboratory operation that actually produced any amount of a specified controlled substance
- A clandestine laboratory operation for the production of controlled substances listed in schedule I or schedule II
- The presence of a person under age 17 during the manufacturing process

Unlawful manufacture of a controlled substance in the first degree is a class A felony.

Schedules I to V controlled substances include opiates, opiate derivatives, hallucinogens, stimulants, depressants, and narcotics, as listed in §§ 20-2-23, 20-2-25, 20-2-27, 20-2-29, and 20-2-31.

Citation: Ala. Code § 26-15-3.2

A responsible person commits the crime of chemical endangerment of exposing a child to an environment in which the responsible person does any of the following:

- Knowingly, recklessly, or intentionally causes or permits a child to be exposed to, to ingest or inhale, or to have contact with a controlled substance, chemical substance, or drug paraphernalia as defined in § 13A-12-260. A violation under this subdivision is a class C felony.
- Violates the subdivision above, and a child suffers serious physical injury by exposure to, ingestion of, inhalation of, or contact with a controlled substance, chemical substance, or drug paraphernalia. A violation under this subdivision is a class B felony.
- Violates the subdivision above, and the exposure, ingestion, inhalation, or contact results in the death of the child. A violation under this subdivision is a class A felony.

The court shall impose punishment pursuant to this section rather than imposing punishment authorized under any other provision of law, unless another provision of law provides for a greater penalty or a longer term of imprisonment.

It is an affirmative defense to a violation of this section that the controlled substance was provided by lawful prescription for the child, and that it was administered to the child in accordance with the prescription instructions provided with the controlled substance.

Citation: Ala. Code § 26-15-3.3

No one shall violate § 26-15-3.2, and no one shall be required to report under chapter 14 of this title, the exposing of an unborn child to any of the following:

- A prescription medication if the responsible person was the mother of the unborn child, and she was, or there is a good-faith belief that she was, taking that medication pursuant to a lawful prescription
- A nonprescription U.S. Food and Drug Administration-approved medication or substance if the responsible person was the mother of the unborn child, and she was, or there is a good-faith belief that she was, taking that medication or substance as directed or recommended by a physician or a health-care provider acting within the authorized scope of his or her license

No one shall be criminally liable under any Alabama law for the assistance or conduct of exposing the unborn child to a medication or substance if his or her assistance or conduct is allowed or accepted under the subsection above.

ALASKA

Current Through July 2019

Citation: Alaska Stat. § 47.17.024

A practitioner of the healing arts involved in the delivery or care of an infant who the practitioner determines has been adversely affected by, or is withdrawing from exposure to, a controlled substance or alcohol shall immediately notify the nearest office of the Department of Health and Social Services of the infant's condition.

Citation: Alaska Stat. § 11.51.110

A person commits the crime of endangering the welfare of a child in the second degree if the person, while caring for a child under age 10, does either of the following:

- Causes or allows the child to enter or remain in a dwelling or vehicle in which a controlled substance is stored in violation of chapter 11.71
- Is impaired by an intoxicant, whether or not prescribed for the person, and there is no third person who is at least age 12 and not impaired by an intoxicant present to care for the child

AMERICAN SAMOA

Current Through July 2019

This issue is not addressed in the statutes reviewed.

ARIZONA

Current Through July 2019

Citation: Rev. Stat. § 13-3623(C)

The terms 'endangered' and 'abuse' include, but are not limited to, circumstances in which a child or vulnerable adult is permitted to enter or remain in any structure or vehicle in which are found volatile, toxic, or flammable chemicals or equipment that is possessed by any person for the purpose of manufacturing a dangerous drug in violation of § 13-3407(A)(3) or (4).

Notwithstanding any other provision of this section, a violation committed under circumstances described in this subsection does not require that a person have care or custody of the child or vulnerable adult.

Citation: Rev. Stat. § 8-201(2), (25)

The term ‘abuse’ includes physical injury that results from permitting a child to enter or remain in any structure or vehicle in which are found volatile, toxic, or flammable chemicals or equipment that is possessed by any person for the purpose of manufacturing a dangerous drug as defined in § 13-3401.

‘Neglect’ or ‘neglected’ is defined as the following:

- Permitting a child to enter or remain in any structure or vehicle in which are found volatile, toxic, or flammable chemicals or equipment that is possessed by any person for the purposes of manufacturing a dangerous drug as defined in § 13-3401
- A determination by a health professional that a newborn infant was exposed prenatally to a drug or substance listed in § 13-3401, and that this exposure was not the result of a medical treatment administered to the mother or the newborn infant by a health professional

This subdivision does not expand a health professional's duty to report neglect based on prenatal exposure to a drug or substance listed in § 13-3401 beyond the requirements prescribed pursuant to § 13-3620(E). The determination by the health professional shall be based on one or more of the following:

- Clinical indicators in the prenatal period, including maternal and newborn presentation
- History of substance use or abuse
- Medical history
- The results of a toxicology or other laboratory test on the mother or the newborn infant
- A diagnosis by a health professional of an infant under age 1 with clinical findings consistent with fetal alcohol syndrome or fetal alcohol effects

Citation: Rev. Stat. § 13-3620(E)

A health-care professional 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 § 13-3401 shall immediately report this information, or cause a report to be made, to the Department of Child Safety. For the purposes of this subsection, ‘newborn infant’ means a newborn infant who is under 30 days of age.

ARKANSAS

Current Through July 2019

Citation: Ann. Code § 12-18-103(14)(B)

‘Neglect’ shall include the following:

- Causing a child to be born with an illegal substance present in the child's bodily fluids or bodily substances as a result of the pregnant mother's knowingly using an illegal substance before the birth of the child
- At the time of the birth of a child, the presence of an illegal substance in the mother's bodily fluids or bodily substances as a result of the pregnant mother's knowingly using an illegal substance before the birth of the child

As used in this subdivision, ‘illegal substance’ means a drug that is prohibited to be used or possessed without a prescription under the Arkansas Criminal Code, § 5-1-101, et seq. A test of the child's bodily fluids or bodily substances may be used as evidence to establish neglect under this subdivision. A test of the mother's bodily fluids or bodily substances may be used as evidence to establish neglect under this subdivision.

Citation: Ann. Code § 5-64-407

A person who is found guilty of or who pleads guilty or nolo contendere to manufacture of methamphetamine or possession of drug paraphernalia with the purpose to manufacture methamphetamine may be subject to an enhanced sentence of an additional 10-year term of imprisonment if the offense is committed as follows:

- In the presence of a minor, elderly person, or incompetent person who may or may not be related to the person
- With a minor, elderly person, or incompetent person in the same home or building where the methamphetamine was being manufactured or the drug paraphernalia to manufacture methamphetamine was in use or was in preparation to be used
- With a minor, elderly person, or incompetent person present in the same immediate area or in the same vehicle at the time of the person's arrest for the offense

The enhanced portion of the sentence is consecutive to any other sentence imposed. Any person sentenced under this section is not eligible for early release on parole or community correction transfer for the enhanced portion of the sentence.

As used in this section, the following definitions apply:

- 'Elderly person' means any person age 70 or older.
- 'Incompetent person' means any person who is incapable of consent because he or she is physically helpless, mentally defective, or mentally incapacitated.
- 'Minor' means any person under age 18.

Citation: Ann. Code § 12-18-103(3)(A)

'Abuse' means any of the following acts or omissions by a parent; guardian; custodian; foster parent; person age 18 or older living in the home with a child, whether related or unrelated to the child; or any person who is entrusted with the juvenile's care by a parent, guardian, custodian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school or any person legally responsible for the juvenile's welfare, but excluding the spouse of a minor:

- Giving a child or permitting a child to consume or inhale a poisonous or noxious substance not prescribed by a physician that has the capacity to interfere with normal physiological functions
- Giving a child or permitting a child to consume or inhale a substance not prescribed by a physician that has the capacity to alter the mood of the child, including, but not limited to, the following:
 - Marijuana
 - Alcohol, excluding alcohol given to a child during a recognized and established religious ceremony or service
 - A narcotic
 - An over-the-counter drug, if a person purposely administers an overdose to a child or purposely gives an inappropriate over-the-counter drug to a child and the child is detrimentally impacted by the overdose or the over-the-counter drug
- Exposing a child to a chemical that has the capacity to interfere with normal physiological functions, including, but not limited to, a chemical used or generated during the manufacture of methamphetamine

Citation: Ann. Code § 12-18-310

All health-care providers involved in the delivery or care of infants shall do the following:

- Contact the Department of Human Services regarding an infant born with and affected by any of the following:
 - A fetal alcohol spectrum disorder
 - Maternal substance abuse resulting in prenatal drug exposure to an illegal or a legal substance
 - Withdrawal symptoms resulting from prenatal drug exposure to an illegal or a legal substance

- Share all pertinent information, including health information, with the department regarding an infant born with and affected by any of the following:
 - A fetal alcohol spectrum disorder
 - Maternal substance abuse resulting in prenatal drug exposure to an illegal or a legal substance
 - Withdrawal symptoms resulting from prenatal drug exposure to an illegal or a legal substance

The department shall accept referrals, calls, and other communications from health-care providers involved in the delivery or care of infants born and affected with a fetal alcohol spectrum disorder, maternal substance abuse resulting in prenatal drug exposure to an illegal or a legal substance, or withdrawal symptoms resulting from prenatal drug exposure to an illegal or a legal substance. The department shall develop a plan of safe care for infants affected with a fetal alcohol spectrum disorder, maternal substance abuse resulting in prenatal drug exposure to an illegal or a legal substance, or withdrawal symptoms resulting from prenatal drug exposure to an illegal or a legal substance.

CALIFORNIA

Current Through July 2019

Citation: Health & Safety Code § 11379.7

Except as provided below, any person convicted of a violation of §11379.6(a) (manufacture of a controlled substance) or §11383 (possession of the chemicals or equipment used for such manufacture), or of an attempt to violate those sections, as those sections relate to methamphetamine or phencyclidine, when the commission or attempted commission of the crime occurs in a structure where any child under age 16 is present, shall, in addition and consecutive to the punishment prescribed for the felony of which he or she has been convicted, be punished by an additional term of 2 years in the State prison.

Any person convicted of a violation of § 11379.6(a) or § 11383, or of an attempt to violate those sections, as those sections relate to methamphetamine or phencyclidine, when the commission of the crime causes any child under age 16 to suffer great bodily injury, shall, in addition and consecutive to the punishment prescribed for the felony of which he or she has been convicted, be punished by an additional term of 5 years in the State prison.

As used in this section, 'structure' means any house, apartment building, shop, warehouse, barn, building, vessel, railroad car, cargo container, motor vehicle, housecar, trailer, trailer coach, camper, mine, floating home, or other enclosed structure capable of holding a child and manufacturing equipment.

Citation: Welf. & Inst. Code § 300

Any child who comes within the following description is within the jurisdiction of the juvenile court, which may adjudge that child to be a dependent child of the court: The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse.

Citation: Penal Code § 11165.13

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 law.

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 that 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.

COLORADO

Current Through July 2019

Citation: Rev. Stat. § 19-3-401(3)(a)-(c)

A newborn child who is not in a hospital setting shall not be taken into temporary protective custody for a period of longer than 24 hours without a court order that includes findings that an emergency situation exists and that the newborn child is seriously endangered.

A newborn child who is in a hospital setting shall not be taken into temporary protective custody without a court order that includes findings that an emergency situation exists and that the newborn child is seriously endangered. A newborn child may be detained in a hospital by a law enforcement officer upon the recommendation of a county Department of Social Services or by a physician, registered nurse, licensed practical nurse, or physician assistant while a court order is being pursued, but the newborn child must be released if a court order is denied.

A court order is not required in the following circumstances:

- When a newborn child is identified by a physician, registered nurse, licensed practical nurse, or physician assistant engaged in the admission, care, or treatment of patients as being affected by substance abuse or demonstrating withdrawal symptoms resulting from prenatal drug exposure
- When the newborn child is subject to an environment exposing the newborn child to a laboratory for manufacturing controlled substances

Citation: Rev. Stat. § 18-6-401(1)(c)

A person commits child abuse if, in the presence of a child, on the premises where a child is found or resides, or in a vehicle containing a child, the person knowingly engages in the manufacture or attempted manufacture of a controlled substance, as defined by § 18-18-102(5), or knowingly possesses ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, isomers, or salts of isomers with the intent to use the product as an immediate precursor in the manufacture of a controlled substance. It shall be no defense to the crime of child abuse that the defendant did not know that a child was present, a child could be found, a child resided on the premises, or a vehicle contained a child.

A parent, lawful guardian, or a person having the care or custody of a child who knowingly allows the child to be present or reside at a premises or to be in a vehicle where the parent, guardian, or person having care or custody of the child knows or reasonably should know that another person is engaged in the manufacture or attempted manufacture of methamphetamine commits child abuse.

A parent, lawful guardian, or a person having the care or custody of a child who knowingly allows the child to be present or reside at a premises or to be in a vehicle where the parent, guardian, or person having care or custody of the child knows or reasonably should know that another person possesses ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers with the intent to use the product as an immediate precursor in the manufacture of methamphetamine commits child abuse.

Citation: Rev. Stat. § 19-1-103(1)(a)

'Abuse' or 'child abuse or neglect' means an act or omission in one of the following categories that threatens the health or welfare of a child:

- Any case in which, in the presence of a child or on the premises where a child is found or resides, a controlled substance as defined in § 18-18-102(5) is manufactured or attempted to be manufactured
- Any case in which a child tests positive at birth for either a schedule I controlled substance, including opiates, opiate derivatives, hallucinogens, stimulants, and depressants that have no legitimate medical use (as defined in § 18-18-203), or a schedule II controlled substance, including any potentially addictive substance that is used or manufactured contrary to its current accepted medical use (as defined in § 18-18-204), unless the child tests positive for a schedule II controlled substance as a result of the mother's lawful intake of such substance as prescribed

Citation: Rev. Stat. § 19-3-102(1)(g)

A child is neglected or dependent if the child tests positive at birth for either a schedule I controlled substance, as defined in § 18-18-203, or a schedule II controlled substance, as defined in § 18-18-204, unless the child tests positive for a schedule II controlled substance as a result of the mother's lawful intake of such substance as prescribed.

CONNECTICUT

Current Through July 2019

Citation: Gen. Stat. § 17a-54b

For purposes of this section:

- 'Drug abuse' means the ingestion of controlled substances without a prescription or other authorization required under State law.
- 'Substance use' means the excessive use of drugs or alcohol in a manner that causes harm to oneself or others.
- 'Fetal alcohol spectrum disorder' means a range of health conditions that may affect an infant whose mother drank alcohol during pregnancy, including, but not limited to, fetal alcohol syndrome.

The Commissioner of Children and Families shall develop and implement policies and procedures in accordance with the Federal Child Abuse Prevention and Treatment Act to secure the health, safety, and well-being of infants identified as being affected at birth by drug abuse, withdrawal symptoms related to prenatal drug or alcohol exposure, or fetal alcohol spectrum disorder. Such policies and procedures shall advance the best interests of such infants and shall include, but not be limited to, securing substance use treatment for such infants, their mothers, and other caregivers and ensuring the infants grow up in substance-use-free homes.

The commissioner shall submit a report, in accordance with the provisions of § 11-4a, no later than February 1, 2018, to the joint standing committees of the General Assembly having cognizance of matters relating to children and public health on the following:

- The number of cases involving such infants referred to the commissioner on and after the effective date of this section by health-care providers
- The policies and procedures developed and implemented by the commissioner
- Gaps in notification to the commissioner of such cases
- Gaps in services provided to such infants, their mothers, and other caregivers
- Recommendations for improvements in services

DELAWARE

Current Through July 2019

Citation: Ann. Code Tit. 11, § 1102

A person is guilty of endangering the welfare of a child in the following cases:

- The person commits any offense set forth in chapter 47 of title 16 (Uniform Controlled Substances Act) in any dwelling, knowing that any child younger than age 18 is present in the dwelling at the time.
- The person provides or permits a child to consume or inhale any substance not prescribed to the child by a physician, as defined in title 16, §§ 4714, 4716, 4718, 4720, and 4722.

Endangering the welfare of a child shall be punished as follows:

- When the death of a child occurs while the child's welfare was endangered as defined above, endangering the welfare of a child is a class E felony.
- When serious physical injury to a child occurs while the child's welfare was endangered as defined above, endangering the welfare of a child is a class G felony.

Citation: Ann. Code Tit. 10, § 901(18)

'Neglect' or 'neglected child' means that a person is responsible for the care, custody, and/or control of the child; has the ability and financial means to provide for the care of the child; and chronically and severely abuses alcohol or a controlled substance, is not active in treatment for the abuse, and the abuse threatens the child's ability to receive care necessary for that child's safety and general well-being.

DISTRICT OF COLUMBIA

Current Through July 2019

Citation: Ann. Code Ann. § 4-1301.06a

Upon receipt of a report that a child is born addicted to or dependent on a controlled substance or has a significant presence of a controlled substance in his or her system at birth; has a controlled substance in his or her body as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian; or is regularly exposed to illegal drug-related activity in the home, the agency shall do the following:

- Commence an initial investigation in accordance with §§ 4-1301.04(b) and 4-1301.06
- Determine whether the child should be removed temporarily from the home environment or can be protected in the home environment
- Commence a social investigation and provide social services if the initial investigation results in a substantiated report

A social investigation shall include a determination of whether there is reasonable evidence of the following:

- Any member of the child's home environment uses drugs illegally, is dependent on drugs, or needs drug abuse treatment.
- The child is exposed regularly to drug use in the home environment.
- The distribution or sale of illegal drugs or drug paraphernalia occurs in the child's home environment.
- Drug-related activity has contributed to or is likely to contribute to violent conduct within the child's home environment.

The social services shall include the following:

- Provision of drug treatment to any member of the child's home environment who is determined to need drug treatment
- Measures to facilitate action by the child's family, with the assistance of the agency and the police if necessary, to eliminate the child's exposure to drug use or to the distribution or sale of illegal drugs or drug paraphernalia in the home environment
- Any other service authorized or required by this subchapter or other applicable laws or rules of the District of Columbia

Citation: Ann. Code § 4-1321.02(d), (f)

Any licensed health professional, law enforcement officer, or humane officer of any agency charged with the enforcement of animal cruelty laws, except an undercover officer whose identity or investigation might be jeopardized, shall report immediately, in writing, to the Child and Family Services Agency that the law enforcement officer or health professional has reasonable cause to believe that a child is abused as a result of inadequate care, control, or subsistence in the home environment due to exposure to drug-related activity.

A licensed health professional who in his or her own professional or official capacity knows that a child under 12 months of age is diagnosed as having a fetal alcohol spectrum disorder shall immediately report or have a report made to the Child and Family Services Agency.

Citation: Ann. Code § 16-2301(9)

'Neglected child' means the following:

- A child 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
- A child who has in his or her body a controlled substance as a direct and foreseeable consequence of the acts or omissions or the child's parent, guardian, or custodian
- A child who is regularly exposed to illegal drug-related activity in the home

The term 'drug-related activity' means the use, sale, distribution, or manufacture of a drug or drug paraphernalia without a legally valid license or medical prescription.

FLORIDA

Current Through July 2019

Citation: Ann. Stat. § 39.01(35)(a)(2), (g)

'Harm' to a child's health or welfare can occur when any person does the following:

- Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury by purposely giving a child poison, alcohol, drugs, or other substances that substantially affect the child's behavior, motor coordination, or judgment or that result in sickness or internal injury
- Exposes a child to a controlled substance or alcohol

Exposure to a controlled substance or alcohol is established by either of the following:

- A test, administered at birth, that indicated that the child's blood, urine, or meconium contained any amount of alcohol or a controlled substance or metabolites of such substances, the presence of which was not the result of medical treatment administered to the mother or the newborn infant
- Evidence of extensive, abusive, and chronic use of a controlled substance or alcohol by a parent to the extent that the parent's ability to provide supervision and care for the child has been or is likely to be severely compromised

For the purposes of this paragraph, the term ‘drugs’ means prescription drugs not prescribed for the child or not administered as prescribed and controlled substances as outlined in schedule I or schedule II of § 893.03. The term ‘controlled substance’ means prescription drugs not prescribed for the parent or not administered as prescribed and controlled substances as outlined in schedule I or schedule II of § 893.03.

Citation: Ann. Stat. § 39.806(1)(j)-(k)

Grounds for the termination of parental rights may be established under the following circumstances:

- The parent or parents have a history of extensive, abusive, and chronic use of alcohol or a controlled substance that renders them incapable of caring for the child and have refused or failed to complete available treatment for such use during the 3-year period immediately preceding the filing of the petition for termination of parental rights.
- A test administered at birth indicated that the child’s blood, urine, or meconium contained any amount of alcohol or a controlled substance or metabolites of such substances, the presence of which was not the result of medical treatment administered to the mother or the newborn infant, and the mother of the child is the mother of at least one other child who was adjudicated dependent after a finding of harm to the child’s health or welfare due to exposure to a controlled substance or alcohol as defined in § 39.01, after which the mother had the opportunity to participate in substance abuse treatment.

GEORGIA

Current Through July 2019

Citation: Ann. Code § 16-5-73(b)

Any person who intentionally causes or permits a child to be present where any person is manufacturing methamphetamine or possessing a chemical substance with the intent to manufacture methamphetamine shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than 2 years nor more than 15 years.

Any person who violates the paragraph above wherein a child receives serious injury as a result of such violation shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than 5 years nor more than 20 years.

Citation: Ann. Code § 15-11-2(56)

The term ‘prenatal abuse’ means exposure to chronic or severe use of alcohol or the unlawful use of any controlled substance, as such term is defined in § 16-13-21, that results in either of the following:

- Symptoms of withdrawal in a newborn or the presence of a controlled substance or a metabolite thereof in a newborn’s body, blood, urine, or meconium that is not the result of medical treatment
- Medically diagnosed and harmful effects in a newborn’s physical appearance or functioning

GUAM

Current Through July 2019

Citation: Ann. Code Tit. 19, § 13101(t)(5)

‘Harm to a child’s physical health or welfare’ occurs in a case where there exists evidence of injury, including, but not limited to, any case where the child is provided with a controlled substance as defined by the Criminal and Correctional Code. However, this paragraph shall not apply to a child’s family who provides such drugs to the child pursuant to the direction or prescription of a practitioner.

HAWAII

Current Through July 2019

Citation: Rev. Stat. § 712-1240.5

Except as provided below, any person convicted of manufacturing a controlled substance in violation of this chapter, who commits the offense knowing that a child under age 16 is present in the structure where the offense occurs, shall be sentenced to a term of 2 years imprisonment to run consecutively to the maximum indeterminate term of imprisonment for the conviction of any offense involving the manufacturing of a controlled substance.

Any person convicted of manufacturing a controlled substance in violation of this chapter, who commits the offense knowing that a child under age 18 is present in the structure where the offense occurs and causes the child to suffer serious or substantial bodily injury, shall be sentenced to a term of 5 years imprisonment to run consecutively to the maximum indeterminate term of imprisonment for the conviction of any offense involving the manufacturing of a controlled substance.

As used in this section, 'structure' means any house, apartment building, shop, warehouse, building, vessel, cargo container, motor vehicle, tent, recreational vehicle, trailer, or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance.

Citation: Rev. Stat. § 350-1

'Child abuse or neglect' means the acts or omissions of any person or legal entity in any manner or degree related to the child, residing with the child, or otherwise responsible for the child's care, which have resulted in harm to the physical or psychological health or welfare of a child under age 18, or have subjected the health or welfare of the child to any reasonably foreseeable, substantial risk of being harmed.

The acts or omissions are indicated for the purposes of reports by circumstances that include, but are not limited to, when the child is provided with dangerous, harmful, or detrimental drugs, provided that this paragraph shall not apply when such drugs are provided to the child pursuant to the direction or prescription of a practitioner.

Citation: Rev. Stat. § 587A-4

'Harm' means damage or injury to a child's physical or psychological health or welfare, such as when the child is provided with dangerous, harmful, or detrimental drugs as defined in § 712-1240, except when a child's family administers drugs to the child as directed or prescribed by a practitioner.

IDAHO

Current Through July 2019

Citation: Idaho Code § 37-2737A(1)-(2)

Except as authorized in this chapter, it is unlawful for any person to manufacture, deliver, or possess with the intent to manufacture or deliver, a controlled substance as defined in schedules I, II, III, and IV in this chapter, upon the same premises where a child under age 18 is present. Schedules I, II, III, and IV controlled substances include opiates, hallucinogens, cannabis, stimulants, depressants, anabolic steroids, hormones, and narcotics (as defined in §§ 37-2705, 37-2707, and 37-2709).

As used in this section, 'premises' means any of the following:

- Motor vehicle or vessel
- Dwelling or rental unit including, but not limited to, an apartment, townhouse, condominium, mobile home, manufactured home, motel room, or hotel room
- Dwelling house, its curtilage, and any other outbuildings

ILLINOIS

Current Through July 2019

Citation: Comp. Stat. Ch. 720, § 646/50

Methamphetamine-related child endangerment: It is unlawful to engage in methamphetamine-related child endangerment. A person engages in methamphetamine-related child endangerment when the person knowingly endangers the life and health of a child by exposing or allowing exposure of the child to a methamphetamine-manufacturing environment. A person who violates the above paragraph is guilty of a class 2 felony.

Aggravated methamphetamine-related child endangerment: It is unlawful to engage in aggravated methamphetamine-related child endangerment. A person engages in aggravated methamphetamine-related child endangerment when the person commits methamphetamine-related child endangerment, and the child experiences death, great bodily harm, disability, or disfigurement as a result of the methamphetamine-related child endangerment. A person who violates the above paragraph is guilty of a class X felony, subject to a term of imprisonment of not less than 6 years and not more than 30 years, and subject to a fine not to exceed \$100,000.

Citation: Comp. Stat. Ch. 325, § 5/3

'Abused child' means a child under age 18 whose parent, immediate family member, any person responsible for the child's welfare, any individual residing in the same home as the child, or a paramour of the child's parent causes to be sold, transferred, distributed, or given to such child a controlled substance, as defined by law, or in violation of the Methamphetamine Control and Community Protection Act, except for controlled substances that are prescribed in accordance with the Illinois Controlled Substances Act and are dispensed to such child in a manner that substantially complies with the prescription.

The term 'neglected child' includes a newborn infant whose blood, urine, or meconium contains any amount of a controlled substance as defined in the Illinois Controlled Substances Act or a metabolite thereof.

Citation: Comp. Stat. Ch. 325, § 5/7.3b

All persons required to report may refer any pregnant person in this State who has a substance use disorder, as defined in the Substance Use Disorder Act, to the Department of Human Services.

The department shall notify the local Infant Mortality Reduction Network service provider or department-funded prenatal care provider in the area in which the person resides. The service provider shall prepare a case management plan and assist the pregnant woman in obtaining counseling and treatment from a local substance use disorder treatment program licensed by the department or a licensed hospital that provides substance abuse treatment services. The local Infant Mortality Reduction Network service provider and department-funded prenatal care provider shall monitor the pregnant woman through the service program.

Citation: Comp. Stat. Ch. 705, § 405/2-3(1)(c)

Those who are neglected include any newborn infant whose blood, urine, or meconium contains any amount of a controlled substance, as defined in § 102(f) of the Illinois Controlled Substances Act, or a metabolite of a controlled substance, with the exception of controlled substances or metabolites of such substances that are present in newborn infant as the result of medical treatment administered to the mother or the newborn infant.

INDIANA

Current Through July 2019

Citation: Ann. Code § 31-34-1-2

A child is a 'child in need of services' if before the child becomes age 18, the following are true:

- The child's physical or mental health is seriously endangered due to injury by the act or omission of the child's parent, guardian, or custodian.
- The child needs care, treatment, or rehabilitation that the child is not receiving and is unlikely to be provided or accepted without the coercive intervention of the court.

A child is 'a child in need of services' if, before the child becomes age 18, the child is a victim of an offense under § 35-46-1-4 (neglect of a dependent child).

Evidence that the illegal manufacture of a drug or controlled substance is occurring on property where a child resides creates a rebuttable presumption that the child's physical or mental health is seriously endangered.

Citation: Ann. Code § 31-34-1-10

Except as provided in §§ 31-34-1-12 and 31-34-1-13, a child is a child in need of services under the following circumstances:

- The child is born with any of the following:
 - Fetal alcohol syndrome
 - Neonatal abstinence syndrome
 - Any amount, including a trace amount, of a controlled substance, a legend drug, or a metabolite of a controlled substance or legend drug in the child's body, including the child's blood, urine, umbilical cord tissue, or meconium
- The child needs care, treatment, or rehabilitation that the child is not receiving or is unlikely to be provided or accepted without the coercive intervention of the court.

Citation: Ann. Code § 31-34-1-11

Except as provided in §§ 31-34-1-12 and 31-34-1-13, a child is a child in need of services under the following circumstances:

- The child has an injury; abnormal physical or psychological development; symptoms of neonatal intoxication or withdrawal; or 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.
- The child needs care, treatment, or rehabilitation that the child is not receiving or is unlikely to be provided or accepted without the coercive intervention of the court.

Citation: Ann. Code § 31-34-1-12

A child is not a child in need of services under §§ 31-34-1-10 or 31-34-1-11 if a drug detected in the body of the child under § 31-34-1-10 or the condition described in § 31-34-1-11 was caused by a legend drug, and during

pregnancy the child's mother possessed a valid prescription for the legend drug, was not in violation of the Indiana legend drug act, and made a good-faith attempt to use the legend drug according to the prescription instructions.

Citation: Ann. Code § 31-34-1-13

A child is not a child in need of services under § 31-34-1-10 or 31-34-1-11 if a drug detected in the body of the child under § 31-34-1-10 or the condition described in § 31-34-1-11 was caused by a legend drug, and during pregnancy the child's mother possessed a valid prescription for the controlled substance and made a good-faith attempt to use the controlled substance according to the prescription instructions.

Citation: Ann. Stat. § 35-46-1-4

A person who has the care of a dependent, whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally places the dependent in a situation that endangers the dependent's life or health commits neglect of a dependent, a level 6 felony.

However, the offense is a level 5 felony if it results in bodily injury or either of the following apply:

- It is committed in a location where a person is violating § 35-48-4-1 (dealing in cocaine or a narcotic drug), § 35-48-4-1.1 (dealing in methamphetamine), or § 35-48-4-1.2 (manufacturing methamphetamine).
- It is the result of a violation of § 35-48-4-1 (dealing in cocaine or a narcotic drug), § 35-48-4-1.1 (dealing in methamphetamine), or § 35-48-4-1.2 (manufacturing methamphetamine).

IOWA

Current Through July 2019

Citation: Ann. Code § 232.2(6)(m)-(p)

'Child in need of assistance' means the following with regard to an unmarried child:

- Who is in need of treatment to cure or alleviate chemical dependency and whose parent, guardian, or custodian is unwilling or unable to provide such treatment
- Whose parent's or guardian's mental capacity or condition, imprisonment, or drug or alcohol abuse results in the child not receiving adequate care
- In whose body there is an illegal drug present as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian, the presence of which shall be determined in accordance with a medically relevant test as defined in § 232.73
- Whose parent, guardian, custodian, or other adult member of the household in which a child resides does any of the following:
 - Unlawfully uses, possesses, manufactures, cultivates, or distributes a dangerous substance in the presence of a child
 - Knowingly allows such use, possession, manufacture, cultivation, or distribution by another person in the presence of a child
 - Possesses a product with the intent to use the product as a precursor or an intermediary to a dangerous substance in the presence of a child
 - Unlawfully uses, possesses, manufactures, cultivates, or distributes a dangerous substance specified § 232.2(6)(2) in a child's home, on the premises, or in a motor vehicle located on the premises

For the purposes of this paragraph, 'in the presence of a child' means in the physical presence of a child or occurring under other circumstances in which a reasonably prudent person would know that the use, possession, manufacture, cultivation, or distribution may be seen, smelled, ingested, or heard by a child.

Citation: Ann. Code § 232.2(6)(p)(2)

The term 'dangerous substance' means any of the following:

- Amphetamine, its salts, isomers, or salts of its isomers
- Methamphetamine, its salts, isomers, or salts of its isomers
- A chemical or combination of chemicals that poses a reasonable risk of causing an explosion, fire, or other danger to the life or health of persons who are in the vicinity while the chemical or combination of chemicals is used or is intended to be used in any of the following:
 - The process of manufacturing an illegal or controlled substance
 - As a precursor in the manufacturing of an illegal or controlled substance
 - As an intermediary in the manufacturing of an illegal or controlled substance
- Cocaine, its salts, isomers, salts of its isomers, or derivatives
- Heroin, its salts, isomers, salts of its isomers, or derivatives
- Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate

Citation: Ann. Code § 232.77(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 § 232.73, on the child.

The practitioner shall report any positive results of such a test on the child to the Department of Human Services. The department shall begin an investigation pursuant to law 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.

Citation: Ann. Code § 232.68(2)(a)(6)-(7)

'Child abuse' or 'abuse' occurs when the following is true:

- 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.
- The person responsible for the care of a child, in the presence of the child, does any of the following:
 - Unlawfully uses, possesses, manufactures, cultivates, or distributes a dangerous substance
 - Knowingly allows such use, possession, manufacture, cultivation, or distribution by another person in the presence of a child
 - Possesses a product with the intent to use the product as a precursor or an intermediary to a dangerous substance in the presence of a child
 - Unlawfully uses, possesses, manufactures, cultivates, or distributes a dangerous substance in a child's home, on the premises, or in a motor vehicle located on the premises

Citation: Ann. Code § 726.6

A person who is the parent, guardian, or person having custody or control over a child or a minor under age 18 with a mental or physical disability, or a person who is a member of the household in which a child or such a minor resides, commits child endangerment when the person knowingly permits a child or minor to be present at a location where amphetamine, methamphetamine, or the salts, isomers, or salts of isomers of either are manufactured or where a product is possessed in violation of the law.

A person who commits child endangerment resulting in the death of a child or minor is guilty of a class B felony.

Notwithstanding § 902.9(1)(b), a person convicted of a violation of this subsection shall be confined for no more than 50 years.

A person who commits child endangerment resulting in serious injury to a child or minor is guilty of a class C felony.

A person who commits child endangerment resulting in bodily injury to a child or minor or child endangerment that does not result in a serious injury is guilty of a class D felony.

A person who commits child endangerment that is not subject to penalty (as a class C or D felony) is guilty of an aggravated misdemeanor.

KANSAS

Current Through July 2019

Citation: Ann. Stat. § 21-5601(b)-(c)

Aggravated endangering a child is defined as the following:

- Recklessly causing or permitting a child under age 18 to be placed in a situation in which the child's life, body, or health is endangered
- Causing or permitting the child to be in an environment in which the person knows or reasonably should know that any person is distributing, possessing with intent to distribute, manufacturing, or attempting to manufacture any methamphetamine or analog thereof
- Causing or permitting the child to be in an environment in which the person knows or reasonably should know that drug paraphernalia or volatile, toxic, or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture any methamphetamine or analog thereof

Aggravated endangering a child is a severity level 9-person felony. The sentence for a violation of aggravated endangering a child shall be served consecutively to any other term or terms of imprisonment imposed. The sentence shall not be considered a departure and shall not be subject to appeal.

KENTUCKY

Current Through July 2019

Citation: Rev. Stat. § 218A.1443

A person is guilty of controlled substance endangerment to a child in the third degree when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or methamphetamine or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance or methamphetamine under circumstances that place a child in danger of serious physical injury or death, if the child receives physical injury as a result of the commission of the offense.

Controlled substance endangerment to a child in the third degree is a class C felony.

Citation: Rev. Stat. § 218A.1442

A person is guilty of controlled substance endangerment to a child in the second degree when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or methamphetamine or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance or methamphetamine under circumstances that place a child in danger of

serious physical injury or death, if the child receives serious physical injury as a result of the commission of the offense.

Controlled substance endangerment to a child in the second degree is a class B felony.

Citation: Rev. Stat. § 218A.1441

A person is guilty of controlled substance endangerment to a child in the first degree when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or methamphetamine or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance or methamphetamine under circumstances that place a child in danger of serious physical injury or death, if the child dies as a result of the commission of the offense.

Controlled substance endangerment to a child in the first degree is a class A felony.

Citation: Rev. Stat. § 218A.1444

A person is guilty of controlled substance endangerment to a child in the fourth degree when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or methamphetamine or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance or methamphetamine under circumstances that place a child in danger of serious physical injury or death, if the child is not injured as a result of the commission of the offense.

Controlled substance endangerment to a child in the fourth degree is a class D felony.

Citation: Rev. Stat. § 600.020(1)(a)(3)

'Abused or neglected child' means a child whose health or welfare is harmed or threatened with harm when his or her parent, guardian, person in a position of authority or special trust, or other person exercising custodial control or supervision of the child, engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to a substance use disorder.

Citation: Rev. Stat. § 214.160(2)-(6)

The Cabinet for Health and Family Services shall, as often as necessary, publish a list of the five most frequently abused substances, including alcohol, by pregnant women in the Commonwealth. Any physician and any other person legally permitted to engage in attendance upon a pregnant woman in this State may perform a screening for alcohol or substance dependency or abuse, including a comprehensive history of such behavior. Any physician may administer a toxicology test to a pregnant woman under the physician's care within 8 hours after delivery to determine whether there is evidence that she has ingested alcohol, a controlled substance, or a substance identified on the list provided by the cabinet or if the woman has obstetrical complications that are a medical indication of possible use of any such substance for a nonmedical purpose.

Any 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, 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 § 600.020(1), has occurred and whether investigation by the cabinet is necessary.

No prenatal screening for alcohol or other substance abuse or positive toxicology finding shall be used as prosecutorial evidence.

No person shall conduct or cause to be conducted any toxicological test pursuant to this section on any pregnant woman without first informing the pregnant woman of the purpose of the test.

LOUISIANA

Current Through July 2019

Citation: Rev. Stat. § 14:93

The term 'cruelty to juveniles' includes the following:

- The intentional or criminally negligent exposure by anyone age 17 or older of any child under age 17 to a clandestine laboratory operation for the unlawful manufacture of methamphetamine, as defined by Rev. Stat. § 40:983, in a situation where it is foreseeable that the child may be physically harmed
- The intentional or criminally negligent allowing of any child under age 17 by any person over age 17 to be present during the manufacturing, distribution, or purchasing or attempted manufacturing, distribution, or purchasing of a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Law

Lack of knowledge of the child's age shall not be a defense. Whoever commits the crime of cruelty to juveniles shall be fined not more than \$1,000 or imprisoned with or without hard labor for not more than 10 years, or both. Whoever commits the crime of cruelty to juveniles when the victim is age 8 or younger shall be imprisoned at hard labor for not more than 20 years.

Citation: Ch. Code Art. 603(19), (24)

The term 'newborn' means a child who is not more than 30 days old, as determined within a reasonable degree of medical certainty by an examining physician.

'Prenatal neglect' means the unlawful use of a controlled dangerous substance, as defined by Rev. Stat. § 40:961, et seq., by a mother during pregnancy that results in symptoms of withdrawal in the infant or the presence of a controlled substance in the infant's body. 'Prenatal neglect' also means exposure to chronic or severe use of alcohol or the unlawful use of any controlled dangerous substance, as defined by Rev. Stat. § 40:961, et seq., or in a manner not lawfully prescribed, which results in symptoms of withdrawal in the newborn or the presence of a controlled substance or a metabolic thereof in his or her body, blood, urine, or meconium that is not the result of medical treatment or observable and harmful effects in his or her physical appearance or functioning.

Citation: Ch. Code Art. 610(G)

If a physician has cause to believe that a newborn was exposed in utero to an unlawfully used controlled dangerous substance, as defined by Rev. Stat. § 40:961, et seq., the physician shall order a toxicology test upon the newborn, without the consent of the newborn's parents or guardian, to determine whether there is evidence of prenatal neglect. If the test results are positive, the physician shall issue a report in accordance with this article as soon as possible. If the test results are negative, all identifying information shall be obliterated if the record is retained, unless the parent approves the inclusion of identifying information. Positive test results shall not be admissible in a criminal prosecution.

If there are symptoms of withdrawal in the newborn or other observable and harmful effects in his or her physical appearance or functioning that a physician has cause to believe are due to the chronic or severe use of alcohol by the mother during pregnancy or are the effects of fetal alcohol spectrum disorder, the physician shall issue a report in accordance with this article.

MAINE

Current Through July 2019

Citation: Rev. Stat. Tit. 22, § 4011-B

A health-care provider involved in the delivery or care of an infant who the provider knows or has reasonable cause to suspect has been born affected by substance use or has withdrawal symptoms that require medical monitoring or care beyond standard newborn care when those symptoms have resulted from or have likely resulted from prenatal drug exposure, whether the prenatal exposure was to legal or illegal drugs, or has a fetal alcohol spectrum disorder shall notify the Department of Health and Human Services of that condition in the infant. The report required by this subsection must be made in the same manner as reports of abuse or neglect required by this subchapter.

This section, and any notification made pursuant to this section, may not be construed to establish a definition of 'abuse' or 'neglect.'

This section, and any notification made pursuant to this section, may not be construed to require prosecution for any illegal action, including, but not limited to, the act of exposing a fetus to drugs or other substances.

Citation: Rev. Stat. Tit. 22, § 4004(2)(E)-(F)

The department shall act to protect abused and neglected children and children in circumstances that present a substantial risk of abuse and neglect, to prevent further abuse and neglect, to enhance the welfare of these children and their families, and to preserve family life wherever possible. The department shall do the following:

- If, after investigation, the department does not file a child protection petition under § 4032 but does open a case to provide services to the family to alleviate child abuse and neglect in the home, assign a caseworker, who shall do the following:
 - Provide information about rehabilitation and other services that may be available to assist the family
 - Develop with the family a written child and family plan that identifies the problems in the family and the services needed to address those problems; describes responsibilities for completing the services, including, but not limited to, payment for services, transportation, and child care services and responsibilities for seeking out and participating in services; and states the names, addresses, and telephone numbers of any relatives or family friends known to the department or parent to be available as resources to the family
- File a child protection petition under § 4032 if, after investigation, the department determines that a child is in immediate risk of serious harm or in jeopardy as defined in this chapter

Citation: Rev. Stat. Tit. 22, § 4004-B

The department shall act to protect infants born identified as being affected by substance use or withdrawal symptoms resulting from prenatal drug exposure, whether the prenatal exposure was to legal or illegal drugs, or having fetal alcohol spectrum disorders, regardless of whether the infant is abused or neglected. The department shall do the following:

- Receive notifications of infants who may be affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or who have a fetal alcohol spectrum disorder
- Investigate promptly notifications of infants born who may be affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or who have a fetal alcohol spectrum disorder as determined to be necessary by the department to protect the infant
- Determine whether each infant for whom the department conducts an investigation is affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or has a fetal alcohol spectrum disorder
- Determine whether the infant for whom the department conducts an investigation is abused or neglected and, if so, determine the degree of harm or threatened harm in each case

- For each infant whom the department determines to be affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or to have a fetal alcohol spectrum disorder, develop, with the assistance of any health-care provider involved in the mother's or the child's medical or mental health care, a plan for the safe care of the infant and, in appropriate cases, refer the child, mother, or both to a social service agency or voluntary substance abuse prevention service
- For each infant whom the department determines to be abused or neglected, comply with § 4004(2)(E)-(F)

MARYLAND

Current Through July 2019

Citation: Family Law § 5-706.3(d)

The Department of Human Resources, in cooperation with the Department of Health, shall develop intervention systems in at least four counties designated by the Secretary of Human Resources that include drug treatment for a mother of a child who is born drug-exposed and supportive services for the family of the child.

An intervention shall be initiated when a child is born drug-exposed and medical personnel have determined that the child is at a high risk of abuse or neglect.

Subject to the provisions above, the local Department of Social Services and the Department of Health shall assist the mother of a child who is born drug-exposed in obtaining drug treatment and providing supportive services to maintain family unity.

A Child in Need of Assistance petition shall be filed on behalf of a child who is born drug-exposed if the following are true:

- The mother refuses the recommended level of drug treatment or does not successfully complete the recommended level of drug treatment.
- The mother is unable to provide adequate care for the child.
- The father is unable to provide adequate care for the child.

Citation: Family Law § 5-710(b)

Promptly after receiving a report from a hospital or health practitioner of suspected neglect related to drug abuse and conducting an appropriate investigation, the local department may file a petition alleging that the child is in need of assistance under title 3, subtitle 8 of the Courts Article, and offer the mother admission into a drug treatment program.

The local department may initiate a judicial proceeding to terminate a mother's parental rights, if the local department offers the mother admission into a drug treatment program under this subsection within 90 days after the birth of the child and if the mother does the following:

- Does not accept admission to the program or its equivalent within 45 days after the offer is made
- Does not accept the recommended level of drug treatment within 45 days after the offer is made
- Fails to fully participate in the program or its equivalent

Citation: Crts. & Jud. Proc. Code § 3-818

Within 1 year after a child's birth, there is a presumption that a child is not receiving proper care and attention from the mother for purposes of § 3-801(f)(2) of this subtitle if the following are true:

- The child was born exposed to cocaine; heroin; methamphetamine; or a derivative of cocaine, heroin, or methamphetamine, as evidenced by any appropriate tests of the mother or child.

- Upon admission to a hospital for delivery of the child, the mother tested positive for cocaine; heroin; methamphetamine; or a derivative of cocaine, heroin, or methamphetamine, as evidenced by any appropriate toxicology test.
- 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

Current Through July 2019

Citation: Gen. Laws Ann. Ch. 119, § 51A

A mandated reporter who, in his or her professional capacity, has reasonable cause to believe that a child is suffering physical or emotional injury resulting from (i) abuse inflicted upon him or her that causes harm or substantial risk of harm to the child's health or welfare, including sexual abuse; (ii) neglect, including malnutrition; or (iii) physical dependence upon an addictive drug at birth, shall immediately communicate with the Department of Children and Families orally and, within 48 hours, shall file a written report with the department detailing the suspected abuse or neglect.

MICHIGAN

Current Through July 2019

Citation: Comp. Laws § 722.623a

A person who is required to report suspected child abuse or neglect 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 of other reports.

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.

Citation: Prot. Serv. Man. PSM 716-7

A complaint involving only substance use is insufficient for investigation or confirmation of child abuse or neglect. Parents may use legally or illegally obtained substances and prescribed medications to varying degrees and remain able to safely care for their children. Substance use and/or abuse by a parent/caregiver may be a risk factor for child maltreatment. When substance use by a parent/caregiver or another adult in the home is alleged, caseworkers must evaluate its impact on child safety.

Parental substance use or positive toxicology in a newborn does not in and of itself prove child abuse or neglect. A caseworker will need to determine if harm has occurred or is likely to occur, not simply if the child has been affected by or exposed to a substance. Parental substance use is a risk factor, not a determinant for case confirmation. Many children of parents who are dependent on substances will not experience abuse or neglect or suffer negative developmental outcomes. They may however be at an increased risk for maltreatment and entering the child welfare system.

MINNESOTA

Current Through July 2019

Citation: Ann. Stat. § 626.5561, Subd. 2

Upon receipt of a report, the local welfare agency shall immediately conduct an appropriate assessment and offer services indicated under the circumstances. Services offered may include, but are not limited to, a referral for chemical dependency assessment, a referral for chemical dependency treatment if recommended, and a referral for prenatal care. The local welfare agency also may take any appropriate action under chapter 253B, including seeking an emergency admission under § 253B.05. The local welfare agency shall seek an emergency admission under § 253B.05 if the pregnant woman refuses recommended voluntary services or fails recommended treatment.

Citation: Ann. Stat. § 626.556, Subd. 2(g)(6) & (8), (k)(9)

The term 'neglect' includes the following:

- Prenatal exposure to a controlled substance, as defined in § 253B.02, subd. 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 on the child at birth, medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance, or the presence of a fetal alcohol spectrum disorder
- Chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety

The term 'physical abuse' includes purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances that were not prescribed for the child by a practitioner in order to control or punish the child or giving the child other substances that substantially affect the child's behavior, motor coordination, judgment, or that results in sickness or internal injury or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances.

Citation: Ann. Stat. § 626.5561, Subd. 1

Except as provided below, a mandated reporter shall immediately report to the local welfare agency if the reporter knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including, but not limited to tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive.

A health-care professional or a social service professional who is mandated to report is exempt from reporting a woman's use or consumption of tetrahydrocannabinol or alcoholic beverages during pregnancy if the professional is providing the woman with prenatal care or other health-care services.

Any person may make a voluntary report if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive.

An oral report shall be made immediately by telephone or otherwise. An oral report made by a mandated reporter shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the local welfare agency. Any report shall be of sufficient content to identify the pregnant woman, the nature and extent of the use, if known, and the name and address of the reporter.

For purposes of this section, 'prenatal care' means the comprehensive package of medical and psychological support provided throughout the pregnancy.

Citation: Ann. Stat. § 626.5562

If the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose, a physician shall administer a toxicology test to a pregnant woman under the physician's care or to a woman under the physician's care within 8 hours after delivery to determine whether there is evidence that she has ingested a controlled substance. If the test results are positive, the physician shall report the results. A negative test result does not eliminate the obligation to report if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose.

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, 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 test results are positive, the physician shall report the results as neglect. A negative test result does not eliminate the obligation to report if other medical evidence of prenatal exposure to a controlled substance is present.

Physicians shall report to the Department of Health the results of tests performed. A report shall be made on the Certificate of Live Birth Medical Supplement or the Report of Fetal Death Medical Supplement filed on or after February 1, 1991.

Citation: Ann. Stat. § 609.378

A parent, legal guardian, or caregiver who endangers the child's person or health by knowingly causing or permitting the child to be present where any person is selling, manufacturing, possessing immediate precursors or chemical substances with the intent to manufacture, or possessing a controlled substance, as defined in statute, is guilty of child endangerment and may be sentenced to imprisonment for not more than 1 year or to payment of a fine of not more than \$3,000, or both.

If the endangerment results in substantial harm to the child's physical, mental, or emotional health, the person may be sentenced to imprisonment for not more than 5 years or to payment of a fine of not more than \$10,000, or both.

MISSISSIPPI

Current Through July 2019

Citation: Ann. Code § 41-29-313

It is unlawful for any person to knowingly or intentionally do the following:

- Purchase, possess, transfer, manufacture, attempt to manufacture, or distribute any two or more of the listed precursor chemicals or drugs in any amount with the intent to unlawfully manufacture a controlled substance
- Purchase, possess, transfer, manufacture, attempt to manufacture, or distribute any two or more of the listed precursor chemicals or drugs in any amount, knowing, or under circumstances where one reasonably should know, that the listed precursor chemical or drug will be used to unlawfully manufacture a controlled substance

Any person who violates this subsection, upon conviction, is guilty of a felony and may be imprisoned for a period not to exceed 8 years and shall be fined not less than \$5,000 nor more than \$50,000, or both.

Any person who violates the provisions of this section with children under age 18 present may be subject to a term of imprisonment, a fine, or both, of twice that provided in this section.

Citation: Ann. Code § 43-21-105(bb), (cc)

The term ‘assessment’ means an individualized examination of a child to determine the child’s psychosocial needs and problems, including the type and extent of any mental health, substance abuse, or co-occurring mental health and substance abuse disorders and recommendations for treatment. The term includes, but is not limited to, a drug and alcohol, psychological, or psychiatric evaluation; records review; clinical interview; or the administration of a formal test and instrument.

The term ‘screening’ means a process, with or without the administration of a formal instrument, that is designed to identify a child who is at increased risk of having mental health, substance abuse, or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention, or more comprehensive assessment.

Citation: Ann. Code § 97-5-39(4)

A parent, legal guardian, or caregiver who endangers a child’s person or health by knowingly causing or permitting the child to be present where any person is selling, manufacturing, or possessing immediate precursors or chemical substances with intent to manufacture, sell, or possess a controlled substance, as prohibited under § 41-29-139 or 41-29-313, is guilty of child endangerment and may be sentenced to imprisonment for no more than 10 years, to payment of a fine of no more than \$10,000, or both.

If the endangerment results in substantial harm to the child’s physical, mental, or emotional health, the person may be sentenced to imprisonment for no more than 20 years, to payment of a fine of no more than \$20,000, or both.

MISSOURI

Current Through July 2019

Citation: Ann. Stat. § 191.737(1)-(3), (5)

Effective August 28, 2019: Notwithstanding the physician-patient privilege, any physician or health-care provider may refer to the Children’s Division families in which children may have been exposed to a controlled substance or alcohol, as evidenced by a written assessment, made or approved by a physician, health-care provider, or by the division, which documents the child as being at risk of abuse or neglect, as evidenced by either of the following:

- Medical documentation of signs and symptoms consistent with controlled substances or alcohol exposure in the child at birth
- Results of a confirmed toxicology test for controlled substances performed at birth on the mother or the child

Notwithstanding the physician-patient privilege, any physician or health-care provider shall refer to the division families in which infants are born and identified as affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure, or a fetal alcohol spectrum disorder, as evidenced by either of the following:

- Medical documentation of signs and symptoms consistent with controlled substances or alcohol exposure in the child at birth
- Results of a confirmed toxicology test for controlled substances performed at birth on the mother or the child

Citation: Ann. Stat. § 191.739

The Department of Social Services shall provide protective services for children that meet the criteria established in § 191.737. In addition, the department may provide preventive services for children that meet the criteria established in § 191.737.

No department shall cease providing services for any child exposed to substances as set forth in § 191.737, wherein a physician or health-care provider has made or approved a written assessment that documents the child as being at risk of abuse or neglect until the physician or health-care provider authorizes the file to be closed.

Citation: Ann. Stat. § 568.045

A person commits the offense of endangering the welfare of a child in the first degree if he or she does the following:

- Knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child younger than age 17
- Unlawfully manufactures or attempts to manufacture compounds; possesses, produces, prepares, sells, transports, tests, or analyzes amphetamine or methamphetamine or any of their analogues in the presence of a child younger than age 17 or in a residence where a child younger than age 17 resides

The offense of endangering the welfare of a child in the first degree is a class D felony, unless any of the following applies:

- The offense is committed as part of an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity, or where physical injury to the child results, or the offense is a second or subsequent offense under this section, in which case the offense is a class C felony.
- The offense results in serious physical injury to the child, in which case the offense is a class B felony.
- The offense results in the death of a child, in which case the offense is a class A felony.

MONTANA

Current Through July 2019

Citation: Ann. Code § 41-3-102(7)(b)

'Child abuse or neglect' includes exposing a child to the criminal distribution of dangerous drugs, as prohibited by § 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by § 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by § 45-9-132.

Citation: Ann. Code § 45-5-622(3), (5)(b)

A person, whether or not the person is supervising the welfare of a child younger than age 18, commits the offense of endangering the welfare of children if the person, in the residence of a child; in a building, structure, conveyance, or outdoor location where a child might reasonably be expected to be present; in a room offered to the public for overnight accommodation; or in any multiple-unit residential building, knowingly does the following:

- Produces or manufactures methamphetamine or attempts to produce or manufacture methamphetamine
- Possesses any material, compound, mixture, or preparation that contains any combination of the items listed in § 45-9-107 with intent to manufacture methamphetamine
- Causes or permits a child to inhale, be exposed to, have contact with, or ingest methamphetamine or be exposed to or have contact with methamphetamine paraphernalia

A person convicted under the subsection above is guilty of a felony and shall be imprisoned in the state prison for a term not to exceed 5 years and may be fined an amount not to exceed \$10,000, or both. If a child suffers serious bodily injury, the offender shall be fined an amount not to exceed \$25,000 or be imprisoned for a term not to exceed 10 years, or both. Prosecution or conviction of a violation of this subsection does not bar prosecution or conviction for any other crime committed by the offender as part of the same conduct.

Citation: Ann. Code § 41-3-201(3)

A physician or other health-care professional involved in the delivery or care of an infant shall report to the department any infant known to the professional to be affected by a dangerous drug, as defined in § 50-32-101.

Citation: Ann. Code § 45-9-132(3)

A person convicted of operation of an unlawful clandestine laboratory shall be fined an amount not to exceed \$50,000, be imprisoned in a state prison for a term not to exceed 50 years, or both, if the operation of an unlawful clandestine laboratory or any phase of the operation:

- Created a substantial risk of death of or serious bodily injury to another
- Took place within 500 feet of a residence, business, church, or school
- Took place in the presence of a person younger than age 18

NEBRASKA

Current Through July 2019

Citation: Rev. Stat. § 28-457

Any person who knowingly or intentionally causes or permits a child or vulnerable adult to inhale or have contact with methamphetamine, a chemical substance, or paraphernalia is guilty of a class I misdemeanor. For any second or subsequent conviction under this subsection, any offending person is guilty of a class IV felony.

Any person who knowingly or intentionally causes or permits a child or vulnerable adult to ingest methamphetamine, a chemical substance, or paraphernalia is guilty of a class I misdemeanor. For any second or subsequent conviction under this subsection, any offending person shall be guilty of a class IIIA felony.

Any child or vulnerable adult who resides with a person violating the subsections above shall be taken into protective custody as provided in the Adult Protective Services Act or the Nebraska Juvenile Code.

Any person who violates the subsections above and a child or vulnerable adult actually suffers serious bodily injury by ingestion of, inhalation of, or contact with methamphetamine, a chemical substance, or paraphernalia is guilty of a class IIIA felony unless the ingestion, inhalation, or contact results in the death of the child or vulnerable adult, in which case the person is guilty of a class IB felony.

NEVADA

Current Through July 2019

Citation: Rev. Stat. § 432B.220(3)

Any person who is a mandated reporter who delivers or provides medical services to a newborn infant and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by a fetal alcohol spectrum disorder or prenatal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but no later than 24

hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency that provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency for appropriate counseling, training, or other services. A notification and referral to an agency that provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

Citation: Rev. Stat. § 432B.230

A report of suspected child abuse or neglect must contain the following information, if obtainable:

- The name, address, age, and sex of the child
- The name and address of the child's parents or other person responsible for the care of the child
- The nature and extent of the abuse or neglect of the child, the effect of a fetal alcohol spectrum disorder or prenatal substance abuse on the newborn infant or the nature of the withdrawal symptoms resulting from prenatal drug exposure of the newborn infant
- Any evidence of the following, whether known or suspected:
 - Abuse or neglect of the child or the child's siblings
 - Effects of a fetal alcohol spectrum disorder or prenatal substance abuse on or evidence of withdrawal symptoms resulting from prenatal drug exposure of the newborn infant
- The name, address, and relationship, if known, of the person who is alleged to have abused or neglected the child
- Any other information known to the person making the report that the agency which provides child welfare services considers necessary

Citation: Rev. Stat. § 432B.330(4)

A child may be in need of protection if the child is identified as being affected by a fetal alcohol spectrum disorder or prenatal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure.

NEW HAMPSHIRE

Current Through July 2019

Citation: Rev. Stat. § 639-A:3

A person convicted of an offense under § 639-A:2 shall be guilty of a felony and, notwithstanding § 651:2, may be sentenced to imprisonment for not more than 5 years, a fine of up to \$10,000, or both.

A prosecution or conviction under this chapter is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Citation: Rev. Stat. § 639-A:2

No person shall knowingly engage in any of the following activities in the presence of a child or vulnerable adult; in the residence of a child or an vulnerable adult; in a building, structure, conveyance, or outdoor location where a child or vulnerable adult might reasonably be expected to be present; within any drug-free school zone; in a room offered to the public for overnight accommodations; or in any multiple unit residential building:

- Manufacturing or attempting to manufacture methamphetamine
- Storing any chemical substance
- Storing or disposing of any methamphetamine waste products
- Storing or disposing of any methamphetamine paraphernalia

No person shall knowingly cause or permit a child or vulnerable adult to inhale, be exposed to, have contact with, or ingest methamphetamine, a chemical substance, or methamphetamine paraphernalia.

No person shall, with the intent to engage in any prohibited conduct under the first paragraph above, knowingly cause or permit any child or vulnerable adult to buy or otherwise obtain methamphetamine paraphernalia.

Citation: Rev. Stat. § 639-A:4

Pursuant to § 169-C:6, a peace officer shall take into protective custody any child present in an area where any of the activities described in § 639-A:2 are taking place. Upon taking a child into protective custody, the peace officer shall follow the procedures outlined in § 169-C:6 and shall report the matter to the Department of Health and Human Services as a suspected incident of abuse or neglect under § 169-C:29. The department shall investigate the report in accordance with § 169-C:34 and shall, as part of its investigation, screen the child for possible health concerns related to exposure to methamphetamine.

If a peace officer does not take a child into protective custody under this section but has reason to believe that the child may have been exposed to methamphetamine, the peace officer shall report the matter to the department as a suspected incident of abuse or neglect. The department shall investigate the report and may, as part of its investigation, screen the child for possible health concerns related to exposure to methamphetamine.

NEW JERSEY

Current Through July 2019

Citation: Admin. Code § 3A:26-1.1

The Division of Child Protection and Permanency shall receive reports of substance-affected infants that ambulatory care facilities submit pursuant to Admin. Code § 8:43A-28.7 and that hospitals submit pursuant to § 8:43G-2.13.

Upon receipt of a report, the division shall first determine if the report is an allegation of child abuse or neglect pursuant to Ann. Stat. § 9:6-1, et seq., and if a determination that a report is an allegation of child abuse or neglect, respond in accordance with applicable law, including Admin. Code § 3A:10.

For reports that are determined not to be allegations of child abuse or neglect, the division representative shall offer services to the parent of each substance-affected infant on a voluntary basis. If the parent accepts, the division shall provide the services.

All reports made pursuant to this chapter shall be considered child abuse investigative records and treated as confidential.

Citation: Admin. Code § 3A:26-1.2

The term 'substance-affected' infant means the following:

- An infant whose mother had a positive toxicology screen for a controlled substance or metabolite thereof during pregnancy or at the time of delivery
- An infant who has a positive toxicology screen for a controlled substance after birth that is reasonably attributable to maternal substance use during pregnancy
- An infant who displays the effects of prenatal controlled substance exposure or symptoms of withdrawal resulting from prenatal controlled substance exposure
- An infant who displays the effects of a fetal alcohol spectrum disorder

Citation: Admin. Code § 3A:26-1.3

Reports must include the following information:

- The name of the substance-affected infant, if known
- The names of the substance-affected infant's mother and father, if known
- The home addresses of the substance-affected infant's mother and father, if known
- The types of substances affecting the substance-affected infant and the harm, if any, caused to the substance-affected infant resulting from his or her exposure to the substances
- Circumstances known to the reporter that would affect an evaluation of the situation, including, but not limited to, awareness of medications prescribed to the mother of the substance-affected infant

NEW MEXICO

Current Through July 2019

Citation: Ann. Stat. § 30-6-1(I)-(J)

Evidence that demonstrates that a child has been knowingly, intentionally, or negligently allowed to enter or remain in a motor vehicle, building, or any other premises that contains chemicals and equipment used or intended for use in the manufacture of a controlled substance shall be deemed prima facie evidence of abuse of the child.

Evidence that demonstrates that a child has been knowingly and intentionally exposed to the use of methamphetamine shall be deemed prima facie evidence of abuse of the child.

Citation: Admin. Code § 8.10.3.17

Within 45 days of acceptance of the report for investigation, the child protective services worker shall complete an investigation of child abuse or neglect and decide whether the report's allegations of abuse or neglect are substantiated or unsubstantiated. A report may be substantiated when an allegation of child abuse or neglect in which a parent, guardian, foster parent, preadoptive parent, or treatment foster care parent has been identified as the perpetrator or as failing to protect the child and credible evidence exists to support the investigation worker's conclusion that the child has been abused or neglected, as defined in the Children's Code. Credible evidence upon which to base a finding of substantiation may include a child born drug exposed or affected due to illegal or illicit drug use.

NEW YORK

Current Through July 2019

Citation: Soc. Serv. Law § 413(4)

Any person, institution, school, facility, agency, organization, partnership, or corporation that employs persons who are mandated to report suspected incidents of child abuse or maltreatment and whose employees, in the normal course of their employment travel to locations where children reside, shall provide, consistent with § 421 of this title, all current and new employees with information on recognizing the signs of an unlawful methamphetamine laboratory. Pursuant to § 19.27 of the mental hygiene law, the Office of Alcoholism and Substance Abuse Services shall make available to such employers information on recognizing the signs of unlawful methamphetamine laboratories.

Citation: Soc. Serv. Law § 371(4-a)

'Neglected child' means a child younger than age 18 whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his or her parent or other person legally responsible for his or her care to exercise a minimum degree of care by misusing a drug or drugs, by misusing alcoholic beverages to the extent that he or she loses self-control of his or her actions, or by any other acts of a similarly serious nature requiring the aid of the court; provided, however, that where the respondent is voluntarily and regularly participating in a rehabilitative program, evidence that the respondent has repeatedly misused a drug or drugs or alcoholic beverages to the extent that he or she loses self-control of his or her actions shall not establish that the child is a neglected child in the absence of evidence establishing that the child's physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired.

NORTH CAROLINA

Current Through July 2019

Citation: Ann. Stat. § 15A-1340.16

When imposing a sentence upon conviction of a crime, the court shall consider evidence of aggravating or mitigating factors present in the offense that make an aggravated or mitigated sentence appropriate, but the decision to depart from the presumptive range is in the discretion of the court. The State bears the burden of proving beyond a reasonable doubt that an aggravating factor exists, and the offender bears the burden of proving by a preponderance of the evidence that a mitigating factor exists.

The court shall make findings of the aggravating and mitigating factors present in the offense only if, in its discretion, it departs from the presumptive range of sentences specified in § 15A-1340.17(c)(2). If the jury finds factors in aggravation, the court shall ensure that those findings are entered in the court's determination of sentencing. Findings shall be in writing. The requirement to make findings in order to depart from the presumptive range applies regardless of whether the sentence of imprisonment is activated or suspended.

Aggravating factors include the following:

- The offense involved the sale or delivery of a controlled substance to a minor.
- The offense is the manufacture of methamphetamine and was committed where a person under age 18 lives, was present, or was otherwise endangered by exposure to the drug, its ingredients, its by-products, or its waste.
- The offense is the manufacture of methamphetamine and was committed in a dwelling that is one of four or more contiguous dwellings.

Mitigating factors include the following:

- The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.
- The defendant has a good treatment prognosis, and a workable treatment plan is available.

NORTH DAKOTA

Current Through July 2019

Citation: Cent. Code § 50-25.1-16

Effective August 1, 2019: A mandatory reporter who has knowledge of or reasonable cause to suspect that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy shall report the circumstances to the Department of Human Services if the knowledge or suspicion is derived from information received by that individual in that individual's official or professional capacity. Any individual may make a voluntary report if the individual has knowledge of or reasonable cause to suspect that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy.

If a report alleges a pregnant woman's use of a controlled substance for a nonmedical purpose, the department or its designee shall immediately initiate an appropriate assessment and offer services indicated under the circumstances. Services offered may include a referral for an addiction assessment; a referral for substance use disorder treatment, if recommended; or a referral for prenatal care. The department or its designee may also take any appropriate action under chapter 25-03.1.

A report and assessment are not required if the pregnant woman voluntarily enters treatment in a licensed treatment program. If the pregnant woman does not complete voluntary treatment or fails to follow treatment recommendations, a mandatory reporter who has knowledge of the failure to complete voluntary treatment or failure to follow treatment recommendations shall make a report as required by this section. The report must be sufficient to identify the woman, the nature and extent of use, if known, and the name and address of the individual making the report.

Citation: Cent. Code § 19-03.1-22.2

Unless a greater penalty is otherwise provided by law, a person who knowingly or intentionally causes or permits a child or vulnerable adult to be exposed to, to ingest or inhale, or to have contact with a controlled substance, chemical substance, or drug paraphernalia is guilty of a class C felony.

Unless a greater penalty is otherwise provided by law, a person who violates the subsection above, and a child or vulnerable adult actually suffers bodily injury by exposure to, ingestion of, inhalation of, or contact with a controlled substance, chemical substance, or drug paraphernalia, is guilty of a class B felony.

If the exposure, ingestion, inhalation, or contact results in the death of the child or vulnerable adult, the person is guilty of a class A felony.

Citation: Cent. Code § 27-20-02(3), (8)

Effective January 1, 2020: 'Aggravated circumstances' means circumstances in which a parent does the following:

- Fails to make substantial, meaningful efforts to secure treatment for the parent's addiction, mental illness, behavior disorder, or any combination of those conditions for a period equal to the lesser of 1 year or one-half of the child's lifetime, measured in days, as of the date a petition alleging aggravated circumstances is filed
- Subjects the child to prenatal exposure to chronic or severe use of alcohol or any controlled substance in a manner not lawfully prescribed by a practitioner
- Allows the child to be present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia, as prohibited by § 19-03.1-22.2

The term 'deprived child' includes the following:

- A child who was subjected to prenatal exposure to chronic and severe use of alcohol or any controlled substance in a manner not lawfully prescribed by a practitioner
- A child who is present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by § 19-03.1-22.2

NORTHERN MARIANA ISLANDS

Current Through July 2019

This issue is not addressed in the statutes reviewed.

OHIO

Current Through July 2019

Citation: Rev. Code § 2919.22(B)(6), (E)(3)

No person shall allow the child to be on the same parcel of real property and within 100 feet of, or, in the case of more than one housing unit on the same parcel of real property, in the same housing unit and within 100 feet of the unit, of any act in violation of § 2925.04 (prohibiting the cultivation of marijuana or the manufacture of a controlled substance) or § 2925.041 (prohibiting the possession of any of the chemicals used in the manufacture of a controlled substance) when the person knows that the act is occurring, whether or not any person is prosecuted or convicted of the violation that is the basis of the violation of this section.

If the drug involved in an offense described above is methamphetamine, the court shall impose a mandatory prison term on the offender as follows:

- If the violation is third-degree felony, there shall be a mandatory prison term that is no less than 2 years.
- If the offender previously has been convicted of or pleaded guilty to a third-degree felony, there shall be a mandatory prison term that is no less than 5 years.
- If the violation is a second-degree felony, there shall be a mandatory prison term that is no less than 3 years.
- If the offender previously has been convicted of or pleaded guilty to a second-degree felony, there shall be a mandatory prison term that is no less than 5 years.

OKLAHOMA

Current Through July 2019

Citation: Ann. Stat. Tit. 10A, § 1-2-101

Every physician, surgeon, or other health-care professional, including doctors of medicine, licensed osteopathic physicians, residents, and interns, or any other health-care professional or midwife involved in the prenatal care of expectant mothers or the delivery or care of infants shall promptly report to the Department of Human Services instances in which an infant tests positive for alcohol or a controlled dangerous substance. This shall include infants who are diagnosed with neonatal abstinence syndrome or fetal alcohol spectrum disorder.

Citation: Ann. Stat. Tit. 10A, § 1-2-102(A)(5), (6)

Whenever the department determines there is a child that meets the definition of a 'drug-endangered child,' as defined in § 1-1-105 of this title, or a child has been diagnosed with fetal alcohol syndrome, the department shall conduct an investigation of the allegations and shall not limit the evaluation of the circumstances to an assessment.

Whenever the department determines an infant has been diagnosed with neonatal abstinence syndrome or a fetal alcohol spectrum disorder, but the referral is not accepted for investigation, the department shall develop a plan of safe care that addresses both the infant and affected family member or caregiver. The plan of safe care shall address, at a minimum, the health and substance use treatment needs of the infant and affected family member or caregiver.

Citation: Ann. Stat. Tit. 10A, § 1-1-105(21)(e), (23), (48)(b)

The term ‘deprived child’ includes a child who is a child in need of special care and treatment because of the child’s physical or mental condition, and the child’s parents, legal guardian, or other custodian is unable or willfully fails to provide such special care and treatment. As used in this paragraph, a child in need of special care and treatment includes, but is not limited to, a child who at birth tests positive for alcohol or a controlled dangerous substance and who, pursuant to a drug or alcohol screen of the child and an assessment of the parent, is determined to be at risk of harm or threatened harm to the health or safety of a child.

‘Drug-endangered child’ means a child who is at risk of suffering physical, psychological, or sexual harm as a result of the use, possession, distribution, manufacture, or cultivation of controlled substances, or the attempt of any of these acts, by a person responsible for the health, safety, or welfare of the child, as defined in paragraph 51 of this section. This term includes circumstances in which the substance abuse of the person responsible for the health, safety, or welfare of the child interferes with that person’s ability to parent and provide a safe and nurturing environment for the child. The term also includes newborns who test positive for a controlled dangerous substance, with the exception of those substances administered under the care of a physician.

The term ‘neglect’ includes the failure or omission to protect a child from exposure to the use, possession, sale, or manufacture of illegal drugs.

OREGON

Current Through July 2019

Citation: Rev. Stat. § 163.547

A person having custody or control of a child under age 16 commits the crime of child neglect in the first degree if the person knowingly leaves the child or allows the child to be in the following:

- In a vehicle where controlled substances or cannabinoid extracts as defined in § 475B.015 are being criminally delivered or manufactured
- In or upon premises, or in the immediate proximity of premises, where a cannabinoid extract is being processed, if the premises have not been licensed under § 475B.090
- In or upon premises and in the immediate proximity where controlled substances are criminally delivered, manufactured for consideration or profit, or where a chemical reaction involving one or more precursor substances is occurring, such as in the following:
 - As part of unlawfully manufacturing a controlled substance or grinding, soaking, or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance
 - As part of unlawfully manufacturing a controlled substance or grinding, soaking, or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance and the premises have not been certified as fit for use under § 453.885
- In or upon premises that have been determined to be not fit for use under §§ 453.855 to 453.912

As used in this subsection, ‘vehicle’ and ‘premises’ do not include public places, as defined in § 161.015.

Child neglect in the first degree is a class B felony.

This section does not apply if the controlled substance is marijuana and is delivered for no consideration.

The Oregon Criminal Justice Commission shall classify child neglect in the first degree as crime category 6 of the sentencing guidelines grid of the commission if the controlled substance being delivered or manufactured is methamphetamine.

Citation: Rev. Stat. § 419B.005

The term 'abuse' includes the following:

- Permitting a person younger than age 18 to enter or remain in or upon premises where methamphetamines are being manufactured
- Unlawful exposure to a controlled substance or to the unlawful manufacturing of a cannabinoid extract, as defined in § 475B.015, that subjects a child to a substantial risk of harm to the child's health or safety

PENNSYLVANIA

Current Through July 2019

Citation: Cons. Stat. Tit. 23, § 6303(b.1)(8)(vi)

The term 'child abuse' includes intentionally, knowingly, or recklessly causing a child to be present at a location while a violation of Cons. Stat. tit. 18, § 7508.2 (relating to operation of a methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.

Citation: Cons. Stat. Tit. 23, § 6386(a), (a.1)

For the purpose of assessing a child and the child's family for a plan of safe care, a health-care provider shall immediately give notice or cause notice to be given to the Department of Human Services if the provider is involved in the delivery or care of a child under 1 year of age and the health-care provider has determined, based on standards of professional practice, the child was born affected by either of the following:

- Substance use or withdrawal symptoms resulting from prenatal drug exposure
- A fetal alcohol spectrum disorder

The notification by a health-care provider to the department and any transmittal to the county agency by the department shall not constitute a child abuse report.

Citation: Pa. Stat. Tit. 35, § 780-113(a)(38), (p)

The following acts and the causing thereof within the Commonwealth are hereby prohibited: The unlawful manufacture of methamphetamine or phencyclidine or their salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, or salts of isomers is possible (i) in a structure where any child under age 18 is present or (ii) where the manufacturing of methamphetamine or phencyclidine causes any child under age 18 to suffer bodily injury.

Any person who violates clause (i) is guilty of a felony of the third degree and upon conviction thereof shall be sentenced to not more than 7 years in prison and a fine of not more than \$25,000, or such larger amount as is sufficient to exhaust the assets utilized in and the profits obtained from the illegal activity.

Any person who violates clause (ii) is guilty of a felony of the second degree and upon conviction thereof shall be sentenced to not more than 10 years in prison and a fine of not more than \$50,000, or such larger amount as is sufficient to exhaust the assets utilized in and the profits obtained from the illegal activity.

PUERTO RICO

Current Through July 2019

This issue is not addressed in the statutes reviewed.

RHODE ISLAND

Current Through July 2019

Citation: Gen. Laws § 40-11-2(1)

'Abused and/or neglected child' means a child whose physical or mental health or welfare is harmed or threatened with harm when his or her parent or other person responsible for his or her welfare fails to provide the child with a minimum degree of care or proper supervision or guardianship because of his or her unwillingness or inability to do so by situations or conditions such as, but not limited to, social problems, mental incompetency, or the use of a drug, drugs, or alcohol to the extent that the parent or other person responsible for the child's welfare loses his or her ability or is unwilling to properly care for the child.

Citation: Gen. Laws § 40-11-6

When any physician, duly certified registered nurse practitioner, or other health-care provider is involved in the delivery or care of infants born with, or identified as being affected by, substance abuse or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder, he or she shall report the incident or cause a report thereof to be made to the Department of Children, Youth and Families (DCYF).

Citation: DCYF Oper. Proc. # 500.0080

In accordance with Federal and State law, the DCYF must identify infants at risk of child abuse and neglect as a result of prenatal substance exposure, ensure that a plan of safe care is developed for these infants, and ensure the referral of these infants and their affected caregivers to appropriate services. For the purposes of this operating procedure, the term 'affected by substance abuse' means the presence of any of the following in the mother:

- Misuse of a legal substance
- Use of an illicit substance

All substance-exposed newborns must have a plan of safe care at the time of discharge from the birthing hospital. Plans of safe care address the health needs of the newborn and the substance use disorder treatment needs of the parent and/or caregiver. The plan of safe care may include recommendations for services such as home visitation, early intervention, and recovery supports.

A child protective services (CPS) report must be made to the CPS hotline for all reports of substance-exposed infants that meet the criteria for child abuse and neglect, including any of the following:

- A newborn has a positive toxicology screen for illegal or nonprescribed substances.
- A newborn is treated for neonatal abstinence syndrome as the result of maternal use of illegal, nonprescribed, or misuse of prescribed medication, or due to undetermined substance exposure.
- The mother of a newborn tests positive for an illegal, nonprescribed medication, and the infant has not tested positive.
- A newborn has fetal alcohol spectrum disorder.
- The case includes a substance-exposed newborn with safety concerns.

SOUTH CAROLINA

Current Through July 2019

Citation: Ann. Code § 63-7-1660(F)

It is presumed that a newborn is an abused or neglected child, as defined in § 63-7-20, and that the child cannot be protected from further harm without being removed from the custody of the mother upon proof of the following:

- 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.
- The child has a medical diagnosis of fetal alcohol syndrome.
- 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 treatment administered to the mother of the infant or the infant.
- Another child of the mother has a medical diagnosis of fetal alcohol syndrome.

This presumption may be rebutted by proof that the father or another adult who will assume the role of parent is available and suitable to provide care for the child in the home of the mother. The father or the other adult must be made a party to the action and subject to the court's order establishing the conditions for maintaining the child in the mother's home. This statutory presumption does not preclude the court from ordering removal of a child upon other proof of alcohol or drug abuse or addiction by the parent or person responsible for the child who has harmed the child or threatened the child with harm.

Citation: Ann. Code § 63-7-1690

When the conditions justifying removal, pursuant to § 63-7-1660, include the addiction of the parent or abuse by the parent of controlled substances, the court may require, as part of the placement plan ordered pursuant to § 63-7-1680, the following:

- The parent must successfully complete a treatment program operated by the Department of Alcohol and Other Drug Abuse Services or another treatment program approved by the department before return of the child to the home.
- Any other adult person living in the home, who has been determined by the court to be addicted to or abusing controlled substances or alcohol and whose conduct has contributed to the parent's addiction or abuse of controlled substances or alcohol, must successfully complete a treatment program approved by the department before return of the child to the home.
- The parent or other adult, or both, must submit to random testing for substance abuse and to be alcohol or drug free for a period of time to be determined by the court before return of the child. The parent or other adult must continue random testing for substance abuse and must be alcohol or drug free for a period of time to be determined by the court after return of the child before the case will be authorized to be closed.

Citation: Ann. Code § 63-7-1940

At a hearing pursuant to § 63-7-1650 or 63-7-1660, at which the court orders that a child be taken or retained in custody or finds that the child was abused or neglected, the court shall order, without possibility of waiver by the department, that a person's name be entered in the Central Registry of Child Abuse and Neglect, if the court finds that there is a preponderance of evidence that the person gave birth to the infant; the infant tested positive for the presence of any amount of controlled substance, prescription drugs not prescribed to

the mother, metabolite of a controlled substance; or the infant has a medical diagnosis of neonatal abstinence syndrome, unless the presence of the substance or metabolite is the result of a medical treatment administered to the mother of the infant during birth or to the infant.

Citation: Ann. Code § 44-53-378

It is unlawful for a person who is age 18 or older to do any of the following:

- Either directly or by extraction from natural substances, or independently by means of chemical processes, or both, unlawfully manufacture amphetamine, its salts, isomers, or salts of isomers; or methamphetamine, its salts, isomers, or salts of its isomers in the presence of a minor child
- Knowingly permit a child to be in an environment where a person is selling, offering for sale, or having in such person's possession with intent to sell, deliver, distribute, prescribe, administer, dispense, manufacture, or attempt to manufacture amphetamine or methamphetamine
- Knowingly permit a child to be in an environment where drug paraphernalia or volatile, toxic, or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture amphetamine or methamphetamine

A person who violates any of the above subsections, upon conviction, for a first offense must be imprisoned no more than 5 years or fined no more than \$5,000, or both. Upon conviction for a second or subsequent offense, the person must be imprisoned no more than 10 years or fined no more than \$10,000, or both.

SOUTH DAKOTA

Current Through July 2019

Citation: Codified Laws § 26-8A-2(9)

'Abused or neglected child' includes the following:

- A child who was subject to prenatal exposure to abusive use of alcohol, marijuana, or any controlled drug or substance not lawfully prescribed by a practitioner as authorized by statute
- A child whose parent, guardian, or custodian knowingly exposes the child to an environment that is being used for the manufacture, use, or distribution of methamphetamines or any other unlawfully manufactured controlled drug or substance

Citation: Codified Laws § 26-8A-34

If the court finds the apparent, alleged, or adjudicated abuse or neglect of a child was related to the use of alcohol, marijuana, or any controlled drug or substance, the placement or return of the child may be subject to the condition, if the court so orders, that a parent, guardian, custodian, or any other adult residing in the home submit to tests for alcohol, marijuana, or any controlled drug or substance prior to or during the placement or return of the child. If a parent, guardian, custodian, or any other adult, who resides in the home and has been ordered by the court to submit to testing for alcohol, marijuana, or any controlled drug or substance, tests positive for alcohol, marijuana, or any controlled drug or substance, or fails to submit to the test as required, the Department of Social Services may immediately remove the child from the physical custody of the parent, guardian, or custodian, without prior court order. The removal is subject to a review hearing, which may be telephonic, within 48 hours, excluding Saturdays, Sundays, and court holidays. As used in this section, any controlled drug or substance means a controlled drug or substance that was not lawfully prescribed by a practitioner.

Citation: Codified Laws § 26-8A-21.1

Nothing in § 26-8A-21 requires reunification of a child with a parent who has a documented history of abuse and neglect associated with chronic alcohol or drug abuse.

TENNESSEE

Current Through July 2019

Citation: Ann. Code § 37-1-102(23)(D), (E)

The term 'severe child abuse' includes either of the following:

- Knowingly allowing a child to be present within a structure where the act of creating methamphetamine is occurring
- Knowingly or with gross negligence allowing a child younger than age 8 to ingest an illegal substance or a controlled substance that results in the child testing positive on a drug screen, except as legally prescribed to the child

Citation: Admin. Pol. & Proc. # 14.1, Work Aid # 1

An allegation of drug-exposed child pertains to a person younger than age 18 to whom any of the following applies:

- Has been exposed to, or is experiencing withdrawal from, the use, sale, or manufacture of a drug or chemical substance, including, but not limited to, alcohol (such as a diagnosis of fetal alcohol syndrome), cannabis, hallucinogens, stimulants, sedatives, narcotics, methamphetamines, heroin, or inhalants, which could adversely affect the child's physical, mental, or emotional functioning as a result of the actions or behaviors of the parent or caregiver
- Has a parent or caregiver that uses drugs or chemical substances that affect their ability to adequately care for the child
- Has a parent or caregiver that has current addiction issues that could adversely affect the child's physical, mental, or emotional functioning

Note: The manufacturing of methamphetamine where children are present or in close proximity will always be considered severe abuse.

Citation: Admin. Pol. & Proc. # 14.21

The Department of Children's Services shall intervene and respond timely to allegations involving drug-exposed children (DEC) by screening and assigning reports made to the child abuse hotline to child protection services based on the severity of or potential for physical, mental, or emotional harm to the child.

A referral that meets the definition of DEC will be assigned to the investigation track when one or more of the following applies:

- The alleged child victim is younger than age 2.
- The alleged child victim has a positive drug screen for an illegal or unprescribed drug.
- The alleged perpetrator directly administers, provides, or uses legal or illegal drugs, resulting in harm to the alleged child victim.
- The parent/caregiver's misuse of prescription medication has caused physical, mental, or emotional harm.
- The alleged child victim and/or mother had a positive drug screen at birth.
- The referral involves the manufacturing of methamphetamine.

TEXAS

Current Through July 2019

Citation: Fam. Code § 261.001

'Abuse' includes the following acts or omissions by a person:

- Causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning
- The current use by a person of a controlled substance as defined by the Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child
- Causing, expressly permitting, or encouraging a child to use a controlled substance

The term 'neglect' includes the acts or omissions by a person that places a child in or fails to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child.

Citation: Fam. Code § 161.001

In this section, the term 'born addicted to alcohol or a controlled substance' means the following:

- A child who is born to a mother who during the pregnancy used a controlled substance, other than a controlled substance legally obtained by prescription, or alcohol
- A child to whom after birth, as a result of the mother's use of the controlled substance or alcohol, the following applies:
 - Experiences observable withdrawal from the alcohol or controlled substance
 - Exhibits observable or harmful effects in the child's physical appearance or functioning
 - Exhibits the demonstrable presence of alcohol or a controlled substance in the child's bodily fluids

The court may order termination of the parent-child relationship if the court finds, by clear and convincing evidence, the following:

- That the parent has done the following:
 - Used a controlled substance in a manner that endangered the health or safety of the child, and did the following:
 - Failed to complete a court-ordered substance abuse treatment program
 - After completion of a court-ordered substance abuse treatment program, continued to abuse a controlled substance
 - Been the cause of the child being born addicted to alcohol or a controlled substance, other than a controlled substance legally obtained by prescription
- That termination is in the best interests of the child

Citation: Admin. Code Tit. 40, § 700.455

In this section, the term 'physical injury that results in substantial harm to the child' means real and significant physical injury or damage to a child that includes, but is not limited to, the following:

- Any of the following conditions that occur in an infant under the age 1 because of the pregnant mother's use of alcohol or a controlled substance that was not lawfully prescribed by a medical practitioner, was lawfully prescribed as a result of the mother seeking out multiple health-care providers as a means of exceeding ordinary dosages, or was not being used in accordance with a lawfully issued prescription, if the mother knew or reasonably should have known she was pregnant:

- A physician’s written diagnosis of physical manifestations of fetal alcohol syndrome or fetal alcohol effect, which includes alcohol-related birth defects and alcohol-related neurodevelopmental disorder
- A physician’s written opinion that the newborn was harmed from in utero exposure to alcohol or a controlled substance
- A physician’s diagnosis of neonatal abstinence syndrome
- Any of the following physical injuries to a child of any age caused by a person’s use of a controlled substance other than prenatal use: illness; interference with normal physiological functions or motor coordination; or any other physical harm directly related to the person’s current use, manufacture, or possession of the controlled substance

Citation: Admin. Code Tit. 40, § 700.465

‘Neglectful supervision’ is a subset of the statutory definitions of neglect that appear in Texas Family Code § 261.001(4).

In the case of prenatal use of alcohol or a controlled substance that was not lawfully prescribed by a medical practitioner, was lawfully prescribed as a result of the mother seeking out multiple health-care providers as a means of exceeding ordinary dosages, or was not being used in accordance with a lawfully issued prescription, the pregnant mother is responsible for neglectful supervision if the following apply:

- The mother knew or reasonably should have known she was pregnant.
- It appears that the mother’s use endangered the physical and emotional well-being of the infant.

It is not necessary that the infant actually suffer injury.

For the limited purpose of this paragraph of this subsection, ‘endangered’ means that the pregnant mother’s use exposed the infant to loss or injury or jeopardized the infant’s emotional or physical health. ‘Endangered’ includes, but is not limited to, a consideration of the following factors:

- Evidence the mother extensively used alcohol or regularly or extensively used a controlled substance over the course of the pregnancy or in close proximity to the child’s expected birth date
- Evidence that the mother has an alcohol or drug addiction
- Evidence that the infant was at a substantial risk of immediate harm from the mother’s use of alcohol or a controlled substance

UTAH

Current Through July 2019

Citation: Ann. Code § 76-5-112.5

The term ‘chemical substance’ means the following:

- A substance intended to be used as a precursor in the manufacture of a controlled substance
- A substance intended to be used in the manufacture of a controlled substance
- Any fumes or byproduct resulting from the manufacture of a controlled substance

The term ‘exposed to’ means the following:

- That the child is able to access or view an unlawfully possessed controlled substance or chemical substance
- That the child has the reasonable capacity to access drug paraphernalia
- That the child is able to smell an odor produced during, or as a result of, the manufacture or production of a controlled substance

Unless a greater penalty is otherwise provided by law, the following apply:

- A person is guilty of a felony of the third degree if the person knowingly or intentionally causes or permits a child to be exposed to, inhale, ingest, or have contact with a controlled substance, chemical substance or drug paraphernalia.
- A person is guilty of a felony of the second degree if the person engages in the conduct described above and as a result of that conduct, a child suffers bodily injury, substantial bodily injury, or serious bodily injury.
- A person is guilty of a felony of the first degree if the person engages in the conduct described above, and as a result of that conduct, a child dies.

It is an affirmative defense to a violation of this section that the controlled substance was obtained by lawful prescription and is used or possessed by the person to whom it was lawfully prescribed.

The penalties described in this section are separate from, and in addition to, the penalties and enhancements described in Title 58, Occupations and Professions.

Citation: Ann. Code § 62A-4a-404

When an individual, including a licensee under the Medical Practice Act or the Nurse Practice Act, attends the birth of a child or cares for a child and determines that the child, at the time of birth, has fetal alcohol syndrome, fetal alcohol spectrum disorder, or fetal drug dependency, the individual shall report that determination to the Division of Child and Family Services as soon as possible.

Citation: Ann. Code § 62A-4a-409(1)

The division shall make a thorough preremoval investigation upon receiving either an oral or written report of alleged abuse, neglect, fetal alcohol syndrome, or fetal drug dependency, when there is reasonable cause to suspect that a situation of abuse, neglect, fetal alcohol syndrome, or fetal drug dependency exists. The primary purpose of the investigation shall be protection of the child.

Citation: Admin. Code R512-80-2

The term ‘abuse’ includes fetal exposure to alcohol or other harmful substances. The term ‘fetal exposure to alcohol or other harmful substances’ means a condition in which a child has been exposed to or is dependent upon harmful substances as a result of the mother’s use of illegal substances or abuse of prescribed medications during pregnancy or has fetal alcohol spectrum disorder.

VERMONT

Current Through July 2019

Citation: Fam. Serv. Pol. Man., Policy 50

The term ‘risk of harm’ means a significant danger that a child will suffer serious harm by other than by accidental means, which harm would be likely to cause physical injury as the result of any of the following:

- The production or preproduction of methamphetamines when a child is actually present
- Failing to provide supervision or care appropriate for the child’s age or development due to the use of illegal substances or the misuse of prescription drugs or alcohol
- Failing to supervise appropriately a child in a situation in which drugs, alcohol, or drug paraphernalia are accessible to the child

Citation: Fam. Serv. Pol. Man., Policy 51

The Family Division will conduct an assessment under the following circumstances:

- When there is substance abuse by a pregnant woman and the following apply:
 - A physician certifies or the mother admits to using illegal substances, using nonprescribed prescription medication, or misusing prescription medication during the last trimester of her pregnancy.
 - There is an allegation that there is likely to be a serious threat to a child’s health or safety due to the mother’s substance use during pregnancy, and intervention before a child’s birth may assist the family to remediate the issues and avoid the need for Department for Children and Families custody after the birth.
 - An assessment may begin approximately 1 month before the due date or sooner, if medical findings indicate that the mother may deliver early.
- When there are concerns regarding a newborn infant, as follows:
 - A newborn has a positive toxicology screen for illegal substances or prescription medication not prescribed to the patient or administered by a physician.
 - A newborn has been deemed by a medical professional to have neonatal abstinence syndrome as the result of maternal use of illegal substances or nonprescribed prescription medication.
 - A newborn has been deemed by a medical professional to have fetal alcohol spectrum disorder.

The division does not intervene in situations where the sole concern is a pregnant woman’s use of marijuana or a newborn’s prenatal exposure to marijuana.

The division’s initial safety intervention shall be an investigation if it alleges substantial child endangerment, including, but not limited to, allegations that a person responsible for a child’s welfare allowed a child to be exposed to methamphetamine production or preproduction.

VIRGIN ISLANDS

Current Through July 2019

Citation: Ann. Code Tit. 14, § 503

‘Neglect’ means to place a child or allow a child to be placed in a situation that a reasonable person should know is dangerous to the child’s health or welfare, and includes, but is not limited to, leaving a child in the care of any person known to use, possess, or sell illegal drugs or abuse alcohol.

Citation: Ann. Code Tit. 5, § 2550(c)(6)

The court may terminate the parental rights and responsibilities of one or both parents if the court finds by clear and convincing evidence that the termination of the parent’s rights is in the best interests of the child and that the parent is unable to discharge parental duties due to habitual abuse or addiction to intoxicating liquors, narcotics, or other dangerous drugs.

VIRGINIA

Current Through July 2019

Citation: Ann. Code § 18.2-248.02

Any person age 18 or older who knowingly allows (i) a minor under age 15, (ii) a minor age 15 or older with whom he or she maintains a custodial relationship, including, but not limited to, as a parent, stepparent, grandparent, step-grandparent, or who stands in loco parentis with respect to the minor, or (iii) a mentally incapacitated

or physically helpless person of any age, to be present in the same dwelling, apartment, unit of a hotel, garage, shed, or vehicle during the manufacture or attempted manufacture of methamphetamine, as prohibited by § 18.2-248(C1), is guilty of a felony punishable by imprisonment for no less than 10 nor more than 40 years. This penalty shall be in addition to and served consecutively with any other sentence.

Citation: Ann. Code § 63.2-100

The term 'abused or neglected child' includes any child younger than age 18 whose parents or other person responsible for his or her care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon the child a physical or mental injury by other than accidental means; or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions, including, but not limited to, a child who is with his or her parent or other person responsible for his or her care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his or her care, when such manufacture, attempted manufacture, or unlawful sale would constitute a felony violation of § 18.2-248.

Citation: Ann. Code § 63.2-1506

A family assessment requires the collection of information necessary to determine the following:

- The immediate safety needs of the child
- The protective and rehabilitative services needs of the child and family that will deter abuse or neglect
- Risk of future harm to the child
- Whether the mother of a child who was exposed in utero to a controlled substance sought substance abuse counseling or treatment prior to the child's birth
- Alternative plans for the child's safety if protective and rehabilitative services are indicated, and the family is unable or unwilling to participate in services

If a report or complaint is based upon one of the factors specified in § 63.2-1509(B), the local department shall (a) conduct a family assessment, unless an investigation is required pursuant to this subsection or other provision of law or is necessary to protect the safety of the child, and (b) develop a plan of safe care in accordance with federal law, regardless of whether the local department makes a finding of abuse or neglect.

Citation: Ann. Code § 63.2-1509(B)

A report is required when, in his or her professional or official capacity, a reporter has reason to suspect that a child is abused or neglected. For purposes of this section, 'reason to suspect that a child is abused or neglected' shall, due to the special medical needs of infants affected by substance exposure, include the following:

- A finding made by a health-care provider within 6 weeks of the birth of a child that the child was born affected by substance abuse or experiencing withdrawal symptoms resulting from in utero drug exposure
- A diagnosis made by a health-care provider within 4 years following a child's birth that the child has an illness, disease, or condition that, to a reasonable degree of medical certainty, is attributable to maternal abuse of a controlled substance during pregnancy
- A diagnosis made by a health-care provider within 4 years following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol

When 'reason to suspect' is based upon this subsection, that fact shall be included in the report along with the facts relied upon by the person making the report. Such reports shall not constitute a per se finding of child abuse or neglect. If a health-care provider in a licensed hospital makes any finding or diagnosis as described above, the hospital shall require the development of a written discharge plan under protocols established by the hospital.

Citation: Admin. Code Tit. 22, § 40-705-40

Pursuant to § 63.2-1509(B), certain facts indicating that a newborn may have been exposed to a controlled substance prior to birth constitute a reason to suspect that a child is abused or neglected. Whenever a health-care provider makes a finding or diagnosis, then the provider must make a report to child protective services immediately.

When a valid report alleging abuse or neglect is made pursuant to § 63.2-1509(B), then the local department immediately must assess the child's circumstances and any threat to the child's health and safety. In addition, the local department must determine whether to petition the court for any necessary services or court orders needed to ensure the safety and health of the child.

Following the receipt of a report, the department may determine that no further action is required if the mother of the infant sought or received substance abuse counseling or treatment.

The local department must notify the mother immediately upon receipt of a report. This notification must include a statement informing the mother that, if she fails to present evidence that she sought or received substance abuse counseling or treatment during the pregnancy, then the department shall conduct an investigation or family assessment.

If the mother sought counseling or treatment but did not receive such services, then the department must determine whether she made a good-faith effort to receive treatment before the child's birth. If the mother made a good-faith effort to receive treatment or counseling prior to the child's birth but did not receive the services due to no fault of her own, then the department may determine no further action is required.

If the mother sought or received substance abuse counseling or treatment, but there is evidence, other than exposure to a controlled substance, that the child may be abused or neglected, then the local department shall conduct an investigation or family assessment.

WASHINGTON

Current Through July 2019

Citation: Rev. Code § 9A.42.100

A person is guilty of the crime of endangerment with a controlled substance if the person knowingly or intentionally permits a dependent child or dependent adult to be exposed to, ingest, inhale, or have contact with methamphetamine or ephedrine, pseudoephedrine, or anhydrous ammonia, including their salts, isomers, and salts of isomers that are being used in the manufacture of methamphetamine, including its salts, isomers, and salts of isomers. Endangerment with a controlled substance is a class B felony.

Citation: Rev. Code § 26.44.170(1), (3)

When, as a result of a report of alleged child abuse or neglect, an investigation is made that includes an in-person contact with the person who is alleged to have committed the abuse or neglect, there shall be a determination of whether it is probable that the use of alcohol or controlled substances is a contributing factor to the alleged abuse or neglect.

If a determination is made that there is probable cause to believe abuse of alcohol or controlled substances has contributed to the child abuse or neglect, the Department of Social and Health Services shall, within available funds, cause a comprehensive chemical dependency evaluation to be made of the person or persons so identified. The evaluation shall be conducted by a physician or persons certified under rules adopted by the department to make such an evaluation.

Citation: Rev. Code § 26.44.200

A law enforcement agency in the course of investigating an allegation under § 69.50.401(a) relating to manufacture of methamphetamine, or an allegation under § 69.50.440 relating to possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, that discovers a child present at the site, shall contact the department immediately.

Citation: Rev. Code § 9.94A.827

The court shall, or if a jury trial is had, the jury shall, make a finding of fact of the special allegation, and if it finds the defendant guilty, also find a special verdict as to the special allegation, in a criminal case in which the following occurs:

- The defendant has been convicted of manufacture of a controlled substance under § 69.50.401 relating to manufacture of methamphetamine; or possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, as defined in § 69.50.440.
- There has been a special allegation pleaded and proven beyond a reasonable doubt that the defendant committed the crime when a person younger than age 18 was present in or upon the premises of manufacture.

WEST VIRGINIA

Current Through July 2019

Citation: W. Va. Code § 49-1-201

‘Imminent danger to the physical well-being of the child’ means an emergency situation in which the welfare or the life of the child is threatened. This may include reasonable cause to believe that the parent, guardian, or custodian’s abuse of alcohol or drugs or other controlled substance, as defined in § 60A-1-101, has impaired his or her parenting skills to a degree as to pose an imminent risk to a child’s health or safety.

Citation: WV. Code § 60A-10-12

Any person age 18 or older who knowingly causes or permits a minor to be present in a location where methamphetamine is manufactured or attempted to be manufactured is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for no less than 1 year nor more than 5 years, fined no more than \$10,000, or both.

Notwithstanding the provisions above, the penalty for a violation of said subsection when the child suffers serious bodily injury shall be confinement in a state correctional facility for no less than 3 years nor more than 15 years, a fine of no more than \$25,000, or both.

WISCONSIN

Current Through July 2019

Citation: Ann. Stat. § 48.205

A child may be held in physical custody if the intake worker determines that there is probable cause to believe the child is within the jurisdiction of the court and probable cause exists to believe that the child is an expectant mother, that if the child expectant mother is not held, there is a substantial risk that the physical health of the unborn child, and of the child when born, will be seriously affected or endangered by the child expectant mother’s habitual lack of self-control in the use of alcoholic beverages, controlled substances, or

controlled substance analogs, exhibited to a severe degree, and that the child expectant mother is refusing or has refused to accept any alcohol or other drug abuse services offered to her or is not making or has not made a good-faith effort to participate in any alcohol or other drug abuse services offered to her.

An adult expectant mother of an unborn child may be held in physical custody if the intake worker determines that there is probable cause to believe that the adult expectant mother is within the jurisdiction of the court, to believe that if the adult expectant mother is not held there is a substantial risk that the physical health of the unborn child, and of the child when born, will be seriously affected or endangered by the adult expectant mother's habitual lack of self-control in the use of alcohol beverages, controlled substances, or controlled substance analogs, exhibited to a severe degree, and to believe that the adult expectant mother is refusing or has refused to accept any alcohol or other drug abuse services offered to her or is not making or has not made a good-faith effort to participate in any alcohol or other drug abuse services offered to her.

Citation: Ann. Stat. § 48.02(1)

'Abuse,' other than when used in referring to abuse of alcohol beverages or other drugs, means any of the following:

- When used in referring to an unborn child, serious physical harm inflicted on the unborn child, and the risk of serious physical harm to the child when born, caused by the habitual lack of self-control of the expectant mother of the unborn child in the use of alcoholic beverages, controlled substances, or controlled substance analogs, exhibited to a severe degree
- Manufacturing methamphetamine in violation of § 961.41(1)(e) under any of the following circumstances:
 - With a child physically present during the manufacture
 - In a child's home, on the premises of a child's home, or in a motor vehicle located on the premises of a child's home
 - Under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child

Citation: Ann. Stat. § 146.0255

Any hospital employee who provides health care, social worker, or intake worker may refer an infant or an expectant mother of an unborn child to a physician for testing of the bodily fluids of the infant or expectant mother for controlled substances, if the hospital employee, social worker, or intake worker suspects that the infant or expectant mother has controlled substances in the bodily fluids of the infant or expectant mother because of the use of controlled substances by the mother while she was pregnant. If the physician determines that there is a serious risk that there are controlled substances in the bodily fluids of the infant or expectant mother because of the use of controlled substances by the mother while she was pregnant and that the health of the infant, the unborn child, or the child when born may be adversely affected by the controlled substances, the physician may test the infant or expectant mother to ascertain whether or not the infant or expectant mother has controlled substances in the bodily fluids of the infant or expectant mother. If the results of the test indicate that the infant does have controlled substances in the infant's bodily fluids, the physician shall report the occurrence of that condition in the infant to the agency that is responsible for conducting child abuse and neglect investigations, and that agency shall offer to provide or arrange for the provision of services and treatment for the child and the child's mother. If the results of the test indicate that the expectant mother has controlled substances in her bodily fluids, the physician may report the occurrence of that condition to the agency that is responsible for conducting unborn child abuse investigations, and that agency shall offer to provide or arrange for the provision of services and treatment for the unborn child and expectant mother. No physician may test an expectant mother without first receiving her informed consent to the testing.

Citation: Ann. Stat. § 146.0257

If a hospital employee who provides health care, social worker, or intake worker suspects that an infant has a fetal alcohol spectrum disorder, the hospital employee, social worker, or intake worker shall refer the infant to a physician for an evaluation to diagnose whether the infant has that disorder. If a physician determines that there is a serious risk that an infant has a fetal alcohol spectrum disorder, the physician shall evaluate the infant to diagnose whether the infant has that disorder. If a physician diagnoses that an infant has a fetal alcohol spectrum disorder, the physician shall report that diagnosis to the agency that is responsible for conducting child abuse and neglect investigations, and that agency shall offer to provide or arrange for the provision of services and treatment for the infant and the infant's mother as provided under § 46.238.

A physician who performs an evaluation shall provide the infant's parents or guardian with all of the following information:

- An explanation concerning the evaluation that was performed, the date of that evaluation, and the diagnosis resulting from that evaluation
- An explanation that the results of the evaluation must be disclosed to an agency if the evaluation indicates a diagnosis of a fetal alcohol spectrum disorder

WYOMING

Current Through July 2019

Citation: Ann. Stat. § 6-4-405

No person shall knowingly and willfully cause or permit any child to do the following:

- Absorb, inhale, or otherwise ingest any amount of methamphetamine
- Remain in a room, dwelling, or vehicle where the person knows methamphetamine is being manufactured or sold
- Enter and remain in a room, dwelling, or vehicle that the person knows is being used to manufacture or store methamphetamine, or the hazardous waste created by the manufacture of methamphetamine

No person having the care or custody of a child shall knowingly and willfully permit the child to remain in a room, dwelling, or vehicle where that person knows that methamphetamine is possessed, stored, or ingested.

Any person who violates any of the provisions of the subsections above is guilty of endangering a child punishable by imprisonment for no more than 5 years, a fine of no more than \$5,000, or both.

Citation: Ann. Stat. § 6-4-403(b)

No person shall knowingly sell, give, or otherwise furnish a child any drug prohibited by law without a physician's prescription.

A person violating this section is guilty of a misdemeanor punishable by imprisonment for no more than 1 year, a fine of no more than \$1,000, or both. A person convicted of a second violation of this section is guilty of a felony punishable by imprisonment for no more than 5 years, a fine of no more than \$5,000, or both.



U.S. Department of Health and Human
Services Administration for Children and
Families Administration on Children,
Youth and Families Children's Bureau



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