



**STATE STATUTES**  
CURRENT THROUGH AUGUST 2019

# Plans of Safe Care for Infants With Prenatal Substance Exposure and Their Families

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

Substance use disorders affect parents and other caregivers and can have negative effects on the health, safety, and well-being of children. One major area of concern is responding to the care and treatment needs of infants with prenatal substance exposure and their families.

To receive Child Abuse Prevention and Treatment Act (CAPTA) funds, States are required to ensure that they operate programs relating to child abuse and neglect that include the following:<sup>1</sup>

- Policies and procedures (including appropriate referrals to child protection services systems and for other appropriate services) to address the needs of infants born and identified as being affected by

<sup>1</sup> 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)



## WHAT'S INSIDE

What is a plan of safe care?

Notification/reporting requirements

Assessment of the infant and family

Responsibility for development of the plan of safe care

Services for the infant

Services for the parents or other caregivers

Monitoring plans of safe care

Summaries of State laws



substance abuse or withdrawal symptoms resulting from prenatal drug exposure or Fetal Alcohol Spectrum Disorder (FASD), including a requirement that health-care providers involved in the delivery or care of such infants notify the child protective services (CPS) system of the occurrence of such condition of such infants

- The development of a plan of safe care (POSC) for infants born and identified as being affected by substance abuse or withdrawal symptoms or FASD to ensure the safety and well-being of such infant following his or her release from the care of health-care providers, including through addressing the health and substance use disorder treatment needs of the infants and affected family or caregivers

For this publication, statutes, regulations, and policies regarding requirements for providing appropriate care for these infants 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.

Information and technical assistance on POSCs are available through the Children's Bureau Regional Offices <https://www.acf.hhs.gov/cb/resource/regional-program-managers> and the National Center on Substance Abuse and Child Welfare <https://ncsacw.samhsa.gov/resources/substance-exposed-infants.aspx>.

## WHAT IS A PLAN OF SAFE CARE?

A POSC is a plan designed to ensure the safety and well-being of an infant with prenatal substance exposure following his or her release from the care of a health-care provider by addressing the health and substance use treatment needs of the infant and affected family or caregiver. States have flexibility as to the implementation consideration of their POSCs. For example, the plan can be initiated in advance of the infant's birth by a designated community organization, including a substance use disorder treatment provider, the health-care provider at the birth hospital, or as part of the discharge process to ensure services are provided to the infant and the affected family or caregiver. There is also variation as to whether the plan is developed by a State's CPS agency or child welfare agency.

While the plan may address the immediate safety, health, and developmental needs of the affected infant, the POSC also must include the health and substance use disorder treatment needs of the affected parents or caregivers. It is best practice that the POSC be developed with input from the parents and caregivers and in collaboration with the health-care provider and other professionals and agencies involved in serving the affected infant and family. It also includes referrals to appropriate services that support the affected infant and his or her family or caregivers.

## NOTIFICATION/REPORTING REQUIREMENTS

Laws and/or policies in approximately 42 States and the District of Columbia require health-care providers to notify CPS when they are involved in the delivery or care of infants who show evidence at birth of having been prenatally exposed to drugs, alcohol, or other controlled substances.<sup>2</sup> Specifically, reports are required when the infant or mother has a toxicology screen that is positive for substances and/or the infant exhibits physical, neurological, or behavioral symptoms consistent with prenatal substance exposure, withdrawal symptoms from prenatal substance exposure, or FASD. While the notification to CPS is required by CAPTA, laws and/or policies in 14 States make clear that a notification is not considered a report of child abuse or neglect unless there is evidence of maltreatment or risk of harm to the infant.<sup>3</sup>

## ASSESSMENT OF THE INFANT AND FAMILY

Upon receiving a notification of an infant with prenatal substance exposure, the CPS agency makes an initial assessment to determine whether the infant meets the State's definition of child abuse or neglect. If the infant does not meet criteria for abuse or neglect, best practice is to refer the family to a community agency for assessment of the family's needs.

If the infant meets the State's criteria for abuse or neglect, the infant and family will be referred to CPS for an investigation or family assessment.

If the infant and family are screened in for services, a CPS agency conducts a safety assessment to determine whether the infant will be safe in the infant's home. The parents' ability to perform essential parental responsibilities may be considered in the assessment of the newborn's safety. Other factors that may be considered include the following:

- The mother's behavior and interaction/bonding with the newborn
- Parental protective capacities of the mother and any other adult caregivers both in and out of the home
- The family's support system
- The home environment
- Evidence of preparation and safe care for the infant, such as a crib, clothing, and formula
- Mental health concerns or the presence of domestic violence
- Assessment of all other adults and children living in the home

<sup>2</sup> The word "approximately" is used to stress the fact that States frequently amend their laws. This information is current through August 2019. Alabama, Alaska, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Virginia, West Virginia, and Wisconsin require reports for substance-exposed infants.

<sup>3</sup> California, Connecticut, Delaware, Georgia, Iowa, Louisiana, Maine, Michigan, New Mexico, New York, North Carolina, Pennsylvania, Vermont, and Virginia

Additional assessments are made to determine the ongoing needs of the infant and the infant's family and other caregivers for services and other supports. The assessments may include consideration of the following factors:

- The infant's current condition and/or special needs or disabilities
- The nature and extent of the mother's alcohol and drug use and treatment history
- Information on the parents' mental health concerns, such as postpartum depression and any co-occurring disorder
- The presence of other children in the home and their current care and condition
- Family strengths and involvement of the infant's father and other family members
- The mother's level of cooperation and willingness to address concerns
- The extent and availability of the newborn's family or other individuals to assist with caregiving and the provision of other support
- The availability of stable housing with no apparent safety or health hazards

## **RESPONSIBILITY FOR DEVELOPMENT OF THE PLAN OF SAFE CARE**

Laws and policies in 33 States require the State agency to develop a POSC to address the health and substance use disorder treatment needs for any infant who has been identified

as affected by the mother's substance use as well as the treatment needs of the affected parent or caregiver.<sup>4</sup> In six States, the plan can be initiated by the health-care provider at the birth hospital as part of the discharge process to ensure that the infant will receive appropriate care in the home.<sup>5</sup> However, the responsibility for developing the plan ultimately rests with the State's child protective or child welfare agency.

The POSC required by CAPTA may differ from a safety plan that addresses the immediate safety of the child. A POSC is determined by the State and can be continuous and a longer-term plan for the family that focuses on the infant's ongoing health, development, safety, and well-being. Developing the plan may include various professionals and disciplines. The agency may actively involve the parents or caregivers, the infant's health-care professionals, the parents' or caregivers' substance use treatment service providers, out-of-home care providers, and supportive adults identified by the parents or caregivers. The plan also may include information from early childhood intervention providers, home visitors, public health personnel, and any other community supports, as appropriate.

## **SERVICES FOR THE INFANT**

When the mother is in treatment during pregnancy, ideally the POSC is developed in advance of the infant's birth so services can be in place and, when possible, placement of the infant in out-of-home care is prevented. If identification of the affected infant happens at the time of birth, the POSC is developed

<sup>4</sup> Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Louisiana, Maine, Maryland, Michigan, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, Washington, West Virginia, and Wisconsin

<sup>5</sup> Kansas, Nevada, New Hampshire, New Mexico, Vermont, and Virginia

before the infant is discharged from the care of the health-care provider. The plan will address the safety, health, and substance use disorder treatment needs of the infant and affected family members or caregivers. Best practices indicate this should be done through the interdisciplinary coordination of services to enhance the overall well-being of the infant and his or her parents or caregivers. Services for the infant may include the following:

- Developmental screening and assessment
- Linkage to early intervention services
- Medical services needed to meet the ongoing health needs of the newborn
- Home visiting programs

## **SERVICES FOR PARENTS OR OTHER CAREGIVERS**

Best practice tells us that a POSC should be designed to meet both the short- and long-term needs of the family, with the goal of strengthening the family and keeping the child safely in the home. A POSC includes several components, depending on the needs of the family, and may include the following:

- Substance use assessment and services
- Medical services needed to meet the ongoing health needs of the mother and other family members
- Mental health services
- Assistance with obtaining safe housing

<sup>6</sup> Arizona, California, Delaware, Georgia, Kansas, Louisiana, Maryland, Nevada, North Dakota, Oklahoma, South Dakota, Virginia, and West Virginia

<sup>7</sup> Delaware, Florida, New Mexico, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, and Vermont

- Instruction on the special care needs of the infant
- Provision of infant safe-sleep information and ensuring safe-sleep arrangements in the home
- Child care or respite care
- Vocational training for mothers seeking entry to the job market
- Comprehensive and coordinated social services, including family therapy groups, parent-child therapy, and residential support groups

## **MONITORING PLANS OF SAFE CARE**

Laws and/or policies in 13 States require the child welfare department to monitor the implementation of a POSC to ensure that the specific action steps are completed.<sup>6</sup> This includes ensuring the family or caregiver is receiving the treatment and appropriate services required by the plan and the infant is safe and receiving appropriate care. Confirming the services identified in the POSC are implemented will ensure the ongoing health and substance use treatment needs of the infant and family are met. The POSC is updated as needed as additional needs and referrals for services are identified.

Laws or policies in 10 States require the child welfare department to collect data required to meet Federal and State reporting requirements.<sup>7</sup> The data required, to the

extent practicable, to be submitted through the National Child Abuse and Neglect Data System,<sup>8</sup> include the following:

- The number of infants identified as being affected by substance use, withdrawal symptoms, or FASD
- The number of infants for whom a POSC was developed
- The number of infants for whom referrals were made for appropriate services, including services for the affected family or caregiver

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.

**Suggested Citation:**

Child Welfare Information Gateway. (2020). *Plans of safe care for infants with prenatal substance exposure and their families*. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau.

<sup>8</sup> The National Child Abuse and Neglect Data System (NCANDS) is a voluntary data collection system that gathers information from all 50 States, the District of Columbia, and Puerto Rico about reports of child abuse and neglect.

## **ALABAMA**

*Current Through August 2019*

### **Definitions**

**Citation: Admin. Code § 660-5-34-.02**

For the purpose of screening and accepting reports of child abuse/neglect that are received by the Department of Human Resources, the following departmental definitions of abuse and neglect are used:

- The definitions of physical abuse indicate nonaccidental injury or threatened injury to a child and that serious harm is present or threatened. Physical abuse, which is directly attributable to a physical act by the person allegedly responsible, includes fetal alcohol syndrome or drug withdrawal at birth due to the mother's substance use or misuse.
- The definitions of neglect indicate a failure by the parent or primary caregiver to protect children from a risk of serious harm. These definitions include a positive test for alcohol and/or drugs at birth. Infants who test positive for alcohol and/or drugs at birth due to the mother's substance misuse, as determined by a medical professional, is considered abuse/neglect.

### **Notification/Reporting Requirements**

This issue is not addressed in the statutes and regulations reviewed.

### **Assessment of the Infant and Family**

**Citation: Admin. Code § 660-5-34-.02**

When complaints or reports are received, the county department has the duty and responsibility to assess the complaint or report and do the following:

- Evaluate the extent to which children are being harmed or are at risk of serious harm
- Evaluate the parents' capacity to improve the situation
- Provide the supportive services needed to better the family's situation for children
- When parents are unable to use this help, invoke legal authority of the court by petition and secure adequate protection, care, and treatment for children whenever necessary to meet their needs and rights

### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **ALASKA**

*Current Through August 2019*

### **Definitions**

This issue is not addressed in the statutes and regulations reviewed.

### **Notification/Reporting Requirements**

**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.

### **Assessment of the Infant and Family**

This issue is not addressed in the statutes and regulations reviewed.

### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **AMERICAN SAMOA**

*Current Through August 2019*

### **Definitions**

This issue is not addressed in the statutes reviewed.

### **Notification/Reporting Requirements**

This issue is not addressed in the statutes reviewed.

### **Assessment of the Infant and Family**

This issue is not addressed in the statutes reviewed.

### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes reviewed.

### **Services for the Infant**

This issue is not addressed in the statutes reviewed.



### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes reviewed.

## **ARIZONA**

*Current Through August 2019*

### **Definitions**

This issue is not addressed in the statutes and regulations reviewed.

### **Notification/Reporting Requirements**

**Citation: Rev. Stat. § 13-3620(E); Pol. & Proc. Man. Ch. 2, § 11.1**

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.

*In regulation:* The department shall investigate all reports alleging that a newborn infant has been prenatally exposed to alcohol or a controlled legal or illegal substance.

A newborn infant who has been prenatally exposed to alcohol or a controlled legal or illegal substance, or is demonstrating withdrawal symptoms resulting from controlled substances, is considered vulnerable to abuse or neglect. The overall substance use by the parent (including prenatal drug use, whether prescribed or not) and the parents' ability to perform essential parental responsibilities must be considered in the assessment of the newborn's safety.

### **Assessment of the Infant and Family**

**Citation: Pol. & Proc. Man. Ch. 2, § 11.1**

For the family functioning assessment, the department shall complete the following:

- Gather information concerning the medical condition of the newborn, including any complications from the substance exposure, the discharge status and instructions (where applicable), and any recommendations for follow-up medical care
- If available, obtain documentation from the health-care professional(s) about the newborn infant's prenatal substance exposure, including the following:
  - Clinical indicators in the prenatal period, including maternal and newborn infant presentation
  - Information regarding history of substance abuse or use by the mother
  - Medical history
  - Toxicology results and/or other laboratory test results on the mother and the newborn infant
- Obtain information from the health-care professional(s) regarding their observations of the parental responsiveness to the newborn, visitation, feeding, understanding of the newborn's special needs, or any other information to assist in the safety assessment and development of the infant care plan
- Obtain the hospital discharge plan and recommendations from the health-care professional about postdischarge infant care and medical follow-up

- If the newborn is hospitalized at the time of the report, visit the newborn's home environment prior to the newborn's discharge
- Obtain the names and contact information of the health-care professionals who will provide routine health care for the newborn and any recommended special medical care
- Gather information to assess family functioning, threats of danger, and parent/caregiver protective capacities in a family, including the following regarding the parent or caregiver:
  - Any history of depression, anxiety, or other mental health concerns
  - Any history of substance use, including the types, frequency, and amount of drugs used
  - Any history of substance-exposed newborn births
  - Any history of participation in substance abuse treatment services and other prevention or intervention services
  - The perception of his or her caregiving role and responsibilities
  - The plan to meet the newborn's basic needs for shelter clothing, medical care, etc.
  - Whether tobacco is smoked in the home and plans to discontinue use
  - Identification of the proposed caregivers of the newborn on a daily basis and when the mother is unavailable and whether that caregiver has the ability to provide safe care to the newborn
  - Sleeping arrangements, including assessment of whether the infant has a safe sleep environment
  - History of parenting, including parenting of siblings in the past or currently
  - Knowledge of child development and behavior management, including the adequacy and accuracy of this information
- If the parent is engaged in medically assisted treatment (MAT) to control an opioid addiction, obtain information about the parent's treatment progress
- For infants suspected of having fetal alcohol spectrum disorder (FASD), obtain the following as soon possible or within 1 year:
  - Documentation of the diagnosis by a health professional indicating clinical findings consistent with FASD
  - The child's medical records
  - The health professional's recommendations for services for the child

### **Responsibility for Development of the Plan of Safe Care**

#### **Citation: Pol. & Proc. Man. Ch. 2, § 11.1**

The department shall develop an infant care plan for newborn infants who were prenatally exposed to alcohol or a controlled substance by the mother and children up to age 1 who were diagnosed with fetal alcohol spectrum disorder.

The department shall collaborate with health-care professionals and local substance abuse assessment and treatment providers, when available, to assist in the investigation, assessment, and delivery of quality services for infants who have been prenatally exposed to alcohol or a controlled legal or illegal substance, and their families.

The department will develop an infant care plan for the newborn infant who was prenatally exposed to alcohol or substance use by the mother or child up to age 1 diagnosed with FASD. The department will actively involve the parents or caregivers, the infant's health-care professionals, the parents' or caregivers' substance abuse treatment service providers, MAT providers, out-of-home care providers, and supportive adults identified by the parents or caregivers (if applicable) to develop the infant care plan.

### **Services for the Infant**

**Citation: Pol. & Proc. Man. Ch. 2, § 11.1**

The infant care plan describes the services and supports that will be provided to ensure the health and well-being of the infant and addresses the substance abuse treatment needs of the parent or caregiver. Each plan addresses the following areas:

- Medical care for the infant
- Safe sleep practices
- Living arrangements in the infant's home

### **Services for the Parents or Other Caregivers**

**Citation: Pol. & Proc. Man. Ch. 2, § 11.1**

The infant care plan describes the services and supports that will be provided to ensure the health and well-being of the infant and addresses the substance abuse treatment needs of the parent or caregiver. Each plan addresses the following areas:

- Substance abuse treatment needs of the parents or caregivers
- Knowledge of parenting and infant development
- Living arrangements in the infant's home
- Child care
- Social connections

The department also will do the following:

- Provide the 'Safe Sleep' flyer to the parent or caregiver and review it with them
- Visit the home to observe the sleeping conditions of the child and discuss any observed risks
- If needed, make referrals to community resources

### **Monitoring Plans of Safe Care**

**Citation: Pol. & Proc. Man. Ch. 2, § 11.1**

If a case involving a substance exposed newborn is opened for ongoing services, the department will oversee the implementation of the infant care plan by observing, discussing, and assessing the child's status indicators and participation with health-care providers during monthly in-person contacts with the child and the child's caregiver.

If a parent has been referred to substance abuse treatment or other services, the department will oversee the sufficiency of the services by observing, discussing, and assessing the parent's progress and participation in services during monthly in-person contacts with the parent and through communication with the parent's service provider(s).

The department also must do the following:

- Review and reassess the infant care plan during case plan staffings, child and family team meetings, and whenever there is an indication that the child's health or health-care needs resulting from prenatal substance exposure have changed
- Update the infant care plan if indicated and distribute it to the parent or caregiver and other team members

To determine when it is appropriate to close an ongoing services case involving a substance-exposed newborn, the department will consider the following:

- Whether the parent understands the care necessary to help the newborn overcome the effects of the substance use and reliably acts to provide necessary care

- Whether the parent has taken steps to change or control the behavior or conditions that placed the child in impending danger, and whether these steps are sufficient to determine the child is safe from impending danger
- Whether the parent is involved with extended family members, community support networks, or service providers who will help the family maintain these changes over time
- Whether the parent understands the infant care plan and knows how and where to access help if additional needs for health care or substance abuse treatment arise in the future

## ARKANSAS

*Current Through August 2019*

### Definitions

**Citation: Ann. Code § 12-18-103; Code of Rules 016 15 CARR 011**

The term 'neglect' includes either of 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

The term '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. A test of the mother's bodily fluids or bodily substances may be used as evidence to establish neglect.

*In regulation:* Fetal alcohol syndrome disorder (FASD) is an umbrella term used to describe the range of effects or disorders that can occur in an individual whose mother consumed alcohol during pregnancy.

### Notification/Reporting Requirements

**Citation: Ann. Code § 12-18-310; Code of Rules 016 15 CARR 011**

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:
  - FASD
  - 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:
  - FASD
  - 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 with and affected by FASD, 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.

*In regulation:* All caregivers involved in the delivery or care of infants must contact the Department of Human Services regarding an infant born and affected with FASD. In addition, Division of Children and Family Services (DCFS) family service workers (FSWs) and health-service workers will refer children who have known prenatal alcohol exposure and exhibit FASD symptoms and/or behaviors to the DCFS FASD unit for an FASD screening.

A child maltreatment investigation that documents the presence of an illegal substance in either the bodily fluids or bodily substances in the mother or child at the time of birth resulting from the mother knowingly using any illegal substance (i.e., Garrett's Law case) will be found true but exempt and will not be placed on the child maltreatment registry. A protective services case shall be opened to establish a plan of safe care.

If the FSW determines on an individual basis the child's health or physical well-being is in immediate danger, he or she should take the newborn into protective custody.

### **Assessment of the Infant and Family**

**Citation: Code of Rules 016 15 CARR 011**

Upon receipt of a call from a health-care provider involved in delivery or care of infants reporting an infant born and affected by FASD, the child abuse hotline worker will refer the call to DCFS for an FASD for assessment. The FASD FSW will do the following:

- Contact the local county office supervisor to ask that a local FSW be assigned to coordinate the FASD assessment of the infant and to implement any subsequent POSC, if applicable
- Conduct all FASD assessments (including, but not limited to, home visit, review of birth records, facial screening, etc.) on referred infants within 14 calendar days of receipt of referral
- Determine whether a POSC is necessary
- If necessary, develop a POSC in collaboration with the locally assigned FSW within 30 calendar days of receipt of the referral
- Once the POSC has been developed, open a supportive services case plan
- Support the local FSW regarding the implementation of a POSC, as appropriate

The local FSW will do the following:

- Accompany the FASD FSW on the assessment of the referred infant, when possible
- Collaborate with the FASD FSW regarding the development of the POSC, if applicable
- If a POSC is developed, open a supportive services case
- Conduct the Family Advocacy and Support Tool (FAST) and use the results from the FAST as well as the POSC to inform the supportive services case
- Assume role as primary worker once the supportive services case is open and oversee implementation of the POSC/supportive services case plan
- Assess the supportive services case for closure within 90 days of opening, if appropriate

The FASD screening will help determine if early intervention services specific to FASD are needed.

### **Responsibility for Development of the Plan of Safe Care**

**Citation: Ann. Code § 12-18-310**

A POSC shall be developed for infants affected by FASD, 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 POSC shall be designed to ensure the safety and well-being of an infant following the release of the infant from the care of a health-care provider. A POSC also shall include content that addresses the health and substance use disorder treatment needs of the infant and affected family or caregiver.

### **Services for the Infant**

**Citation: Ann. Code § 12-18-310**

The POSC shall be designed to ensure the safety and well-being of an infant following the release of the infant from the care of a health-care provider.

### **Services for the Parents or Other Caregivers**

**Citation: Ann. Code § 12-18-310; Code of Rules 016 15 CARR 011**

A POSC also shall include content that addresses the health and substance use disorder treatment needs of the infant and affected family or caregiver.

*In regulation:* If a child is diagnosed with FASD, the following services may be offered to the family:

- Referral to the Division of Developmental Disabilities Services, if applicable and available
- Referral to specialized day care, if applicable
- Referral to an FASD family support group (available to birth, foster, and adoptive families), if available
- FASD parenting classes (available to birth, foster, and adoptive families)

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **CALIFORNIA**

*Current Through August 2019*

### **Definitions**

**Citation: DSS All County Letter No. 17-92**

Under California law, an 'infant born and identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or a fetal alcohol spectrum disorder (FASD)' is defined as an infant for whom substance exposure is indicated at birth, and subsequent assessment identifies indicators of risk that may affect the infant's health and safety.

### **Notification/Reporting Requirements**

**Citation: DSS All County Letter No. 17-92**

A health practitioner or a medical social worker, prior to the infant's release from the hospital, must perform the assessment of needs. The purpose of the assessment is to identify needed services for the mother, child, or family and the level of risk to the newborn upon release to the home. The assessment will identify the level of services and intervention necessary and may include a referral to the county welfare department for child welfare services.

Upon receipt of a mandated report from a health-care provider, the county child welfare agency must then respond in accordance with the appropriate protocols and assessments required by State regulations set forth in Division 31-100 of the *Child Welfare Manual of Policies and Procedures*.

When investigating a referral, the county child welfare agency must assess and identify any safety threats to the child, including any safety threat posed by the parent's substance abuse. This includes completion of a risk assessment.

## Assessment of the Infant and Family

**Citation: Health & Safety Code § 123605; DSS All County Letter No. 17-92**

Each county shall establish protocols between county health departments, county welfare departments, and all public and private hospitals in the county regarding the application and use of an assessment of the needs of, and a referral for, a substance-exposed infant to a county welfare department pursuant to § 11165.13 of the Penal Code.

The assessment of the needs shall be performed by a health practitioner or a medical social worker. The needs assessment shall be performed before the infant is released from the hospital.

The purpose of the needs assessment is to do all the following:

- Identify needed services for the mother, child, or family, including, where applicable, services to assist the mother caring for her child and services to assist maintaining children in their homes
- Determine the level of risk to the newborn upon release to the home and the corresponding level of services and intervention, if any, necessary to protect the newborn's health and safety, including a referral to the county welfare department for child welfare services
- Gather data for information and planning purposes

*In regulation:* Prenatal substance exposure may be demonstrated by a positive toxicology screen from the infant or mother at delivery, an infant showing signs of substance withdrawal, an FASD diagnosis, or other credible information that there was prenatal substance abuse by the mother (e.g., self-admission, witnessed drug or alcohol abuse while pregnant). An indication of substance exposure at birth includes exposure to either illegal and/or legal substances, such as prescription opioids or other drugs. Such indication will trigger an assessment of needs and indicators of risk to the child's health and safety.

A positive toxicology screen at the time of delivery is not in and of itself a sufficient basis for a mandated report. If, following the assessment, there are other factors present indicating risk to the child, a report shall be made by the health-care provider to the county child welfare agency. Other indicators of risk to the infant's health and safety that may be identified upon further assessment, include, but are not limited to, the following:

- Special medical and/or physical problems of the infant
- Special care needs of the infant
- Infant's experience of withdrawal symptoms
- Parent's lack of prenatal care
- Parent's history of drug/alcohol use
- Parent's history of drug/alcohol treatment
- Parent's awareness of impact of drug/alcohol use on the child
- Parent's emotional and mental functioning and stability
- Parent's responsiveness to the infant, bonding/attachment, and parenting skills
- Parent's preparedness to care for the infant (e.g., adequate baby supplies)
- Parent's history of abuse or neglect of other children
- Parent's history of family violence
- Parent's involvement in criminal activity or criminal activity in the household
- Lack of a family support system
- Unsafe home environment conditions

### **Responsibility for Development of the Plan of Safe Care**

**Citation: DSS All County Letter No. 17-92**

When a safety plan and/or case plan is developed and implemented for an infant born and identified as being affected by substance abuse, that plan shall also act as the plan of safe care.

If the case worker determines the caregiver has the protective capacity to mitigate safety threats and/or risks with appropriate services while keeping the child in the home or placement, the case worker shall develop a safety plan to permit the child to remain in the home with specific, timely actions that mitigate the identified safety threats. If the safety threats are not mitigated during the investigation period, and the referral is promoted to a case, or if the child must be removed from the home, a case plan shall be developed in accordance with Welfare and Institutions Code § 16501.1.

Consistent with the existing requirements of safety plans and case plans, the case worker shall clearly identify and document the effect(s) of the substance abuse, withdrawal symptoms, and/or FASD in these plans as well as the specific action steps necessary to assist maintaining children in their homes or, if appropriate, to promote family reunification.

### **Services for the Infant**

**Citation: DSS All County Letter No. 17-92**

These action steps must address the immediate safety needs of the affected infant and the ongoing treatment needs of the infant. The action steps shall include referrals to and delivery of services that are appropriate for the infant and the affected family member or caregiver.

### **Services for the Parents or Other Caregivers**

**Citation: DSS All County Letter No. 17-92**

These action steps must address the health and substance abuse treatment needs of the affected family member or caregiver. The action steps shall include referrals to and delivery of services that are appropriate for the infant and the affected family member or caregiver.

### **Monitoring Plans of Safe Care**

**Citation: DSS All County Letter No. 17-92**

The case worker also must monitor the safety plan or case plan to ensure appropriate implementation and that the specific action steps are completed. The monitoring should include all steps necessary to assure the safety of the infant. This includes ensuring that the family or caregiver is receiving the treatment and appropriate services required by the plan.

## **COLORADO**

*Current Through August 2019*

### **Definitions**

This issue is not addressed in the statutes and regulations reviewed.

### **Notification/Reporting Requirements**

This issue is not addressed in the statutes and regulations reviewed.



### **Assessment of the Infant and Family**

This issue is not addressed in the statutes and regulations reviewed.

### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **CONNECTICUT**

*Current Through August 2019*

### **Definitions**

#### **Citation: Gen. Stat. § 17a-54b**

For purposes of this section, the following definitions apply:

- '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' (FASD) 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.

### **Notification/Reporting Requirements**

#### **Citation: Ann. Stat. § 17a-102a; DCF Substance Use Prac. Guide**

A provider involved in the delivery or care of a newborn who, in the estimation of such provider, exhibits physical, neurological, or behavioral symptoms consistent with prenatal substance exposure, withdrawal symptoms from prenatal substance exposure, or FASD shall notify the Department of Children and Families (DCF) of such condition in such newborn. On and after January 15, 2019, such notice shall include a copy of the plan of safe care (POSC) created pursuant to the guidelines developed pursuant to § 17a-102a(c).

*In policy:* As required by Federal law, DCF is developing policies and procedures for the notification to child protective services of the birth of an infant affected by prenatal drug or alcohol exposure, to ensure the development of a POSC for infants who are prenatally exposed, and to ensure a referral for those infants to screening and early intervention services. These procedures include a requirement that health-care providers involved in the delivery or care of such infants notify DCF, but this notification shall not be construed as a mandated report of child abuse or neglect.

### **Assessment of the Infant and Family**

**Citation: DCF Substance Use Prac. Guide**

Indicators that a newborn has special needs may include positive urine or meconium toxicology for substances and the condition of parental substance use. Born under such circumstances, a newborn shall be considered and addressed following the high-risk newborn policy standards. For this, the investigation shall include an assessment of the following:

- The extent of the mother's prenatal care
- The parents' willingness to participate in appropriate services
- The support services within the family or community that are available to the parents
- The safety and adequacy of the home
- Potential postpartum depression and other mental health concerns
- The parents' ability to provide appropriate care in the home

The DCF social worker shall visit with the child and family in the home within 3 days of discharge from the hospital and in-home visits shall occur at least twice a week for at least 4 weeks. One of the weekly visits may be made by an in-home service provider.

### **Responsibility for Development of the Plan of Safe Care**

**Citation: Gen. Stat. §§ 17a-54b; 17a-102a(c)**

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 FASD. 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.

No later than January 1, 2019, the Commissioner of Children and Families shall, in consultation with other departments, agencies, or entities concerned with the health and well-being of children, develop guidelines for the safe care of newborns who exhibit physical, neurological, or behavioral symptoms consistent with prenatal substance exposure, withdrawal symptoms from prenatal substance exposure, or FASD. Such guidelines shall include, but are not limited to, instructions to providers regarding such providers' participation in the discharge planning process, including the creation of written POSCs, that shall be developed between such providers and mothers of such newborns as part of such process.

### **Services for the Infant**

**Citation: Gen. Stat. § 17a-710(a); DCF Substance Use Prac. Guide**

The treatment program for substance use disorders shall include pediatric care, including therapeutic care for neurologically, behaviorally, or developmentally impaired infants.

*In policy:* POSCs should include the provision of services and supports that address the needs of the infant and his or her caregivers' physical health, social-emotional health, and safety needs and is developed in an interdisciplinary and family-focused manner. It is based on the results of a comprehensive, multidisciplinary assessment that is coordinated across disciplines addressing the treatment needs of the infant and family or caregiver. Specifically, POSCs should address infant health and development.

### **Services for the Parents or Other Caregivers**

**Citation: Gen. Stat. § 17a-710(a); DCF Substance Use Prac. Guide**

It shall be the policy of the Department of Mental Health and Addiction Services to develop and implement treatment programs for pregnant women of any age with substance use disorders and their children. The department shall seek private and public funds for such programs. Each program shall, to the extent possible and within available appropriations, offer comprehensive services, including the following:

- Education and prevention programs in high schools and family-planning clinics
- Outreach services to identify pregnant women with substance use disorders early and enroll them in prenatal care and substance abuse treatment programs
- Case management services
- Hospital care with substance abuse treatment available in coordination with obstetric services
- Child care for other siblings
- Classes on parenting skills
- Home visitation for those who need additional support or who are reluctant to enter a treatment program
- Access to Special Supplemental Nutrition Program for Women, Infants, and Children and other entitlement programs
- Vocational training for mothers seeking entry to the job market
- A housing component

To the extent possible, all services shall be coordinated to be delivered from a centralized location, utilizing medical vans where available and providing transportation assistance when needed.

*In policy:* POSCs should include the provision of services and supports that address the needs of the infant and his or her caregivers' physical health, social-emotional health, and safety needs and is developed in an interdisciplinary and family-focused manner. It is based on the results of a comprehensive, multidisciplinary assessment that is coordinated across disciplines addressing the treatment needs of the infant and family or caregiver. Specifically, POSCs should address the following:

- Health
- Substance use and mental health
- Parenting and family support

### **Monitoring Plans of Safe Care**

**Citation: Gen. Stat. § 17a-54b**

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 August 2019*

### **Definitions**

**Citation: Ann. Code Tit. 16, § 902B**

'Infant with prenatal substance exposure' means a child no more than age 1 who is born with and identified as being affected by substance abuse or withdrawal symptoms or a fetal alcohol spectrum disorder (FASD). The health-care provider involved in the delivery or care of the infant shall determine whether the infant is affected by the substance exposure.

A 'plan of safe care' (POSC) is a written or electronic plan designed to ensure the safety and well-being of an infant with prenatal substance exposure following the release from the care of a health-care provider by addressing the health and substance use treatment needs of the infant and affected family or caregiver and monitoring these plans to ensure appropriate referrals are made and services are delivered to the infant and affected family or caregiver. The monitoring of these plans may be time limited based upon the circumstances of each case.

'Substance abuse' means the chronic, habitual, regular, or recurrent use of alcohol, inhalants, or controlled substances.

The term 'withdrawal symptoms' refers to a group of behavioral and physiological features in the infant that follow the abrupt discontinuation of a drug that has the capability of producing physical dependence. The definition does not include withdrawal symptoms that result exclusively from a prescription drug used by the mother or administered to the infant under the care of a prescribing medical professional, in compliance with the directions for the administration of the prescription as directed by the prescribing medical professional, its compliance and administration verified by the health-care provider involved in the delivery or care of the infant, and no other risk factors to the infant are present and does not warrant a notification to the Division of Family Services (DFS) under § 903B of this title.

### **Notification/Reporting Requirements**

**Citation: Ann. Code Tit. 16, § 903B; DFS Pol. Man., § F-4**

The health-care provider who is involved in the delivery or care of an infant with prenatal substance exposure shall make a notification to the division by contacting the DFS report line, as identified in § 905 of this title. A notification made under this section is not to be construed to constitute a report of child abuse or neglect under § 903 of this title, unless risk factors are present that would jeopardize the safety and well-being of the infant.

*In policy:* DFS accepts for investigation all reports from medical facilities of infants exposed in utero to alcohol or drugs, as evidenced by either the mother or infant testing positive for drugs at birth. The response decision will be determined by careful consideration of the risk factors and danger-loaded elements. Any report alleging prenatal exposure in which the child is experiencing medical complications requires a response prior to the child's release from the hospital.

### **Assessment of the Infant and Family**

**Citation: DFS Pol. Man., § C-2; DFS User Man., D-15**

For a report of a substance-exposed infant, the caseworker shall attend a predischarge meeting at the hospital with the involved agencies and conduct a safety assessment of the home prior to the discharge of the infant to the home. The caseworker also will be responsible for implementing, coordinating, and monitoring the POSC.

The POSC should ensure that a comprehensive assessment has been completed for infant, maternal, and paternal/secondary caregiver areas of risk and that referrals, information, and linkages to the community are completed prior to the discharge of the infant. The plan also must consider how the family's existing support network will support the POSC and discharge of the infant. The purpose of the POSC—which is to identify the needs of the infant and family and to provide services with the goal of strengthening the family and maintaining the infant safely in the home—shall be explained to the family.

### **Responsibility for Development of the Plan of Safe Care**

**Citation: Ann. Code Tit. 16, § 905B; DFS User Man., D-15**

Upon receipt of a notification under § 903B of this title, DFS shall do the following:

- Determine if the case requires an investigation or family assessment
- Develop a POSC
- Provide copies of the POSC to all agencies and providers involved in the care or treatment of the infant with prenatal substance exposure and affected family or caregiver
- Implement and monitor the provisions of the POSC

*In policy:* The POSC coordinator will be responsible for developing and implementing a POSC with the family to ensure the safety and well-being of the infant upon discharge from the health-care provider. For those notifications screened in for an investigation, the POSC coordinator is DFS. For those notifications screened in for an assessment, the POSC coordinator is the contracted agency.

The POSC is prepared by the POSC coordinator who is responsible for gathering information from the multidisciplinary team and coordinating the referrals provided at the infant's discharge. In order to develop a coordinated and comprehensive assessment of the needs of the infant and family, the multidisciplinary team may include, but shall not be limited to, DFS; medical personnel; substance use disorder treatment, mental health, and early childhood intervention providers; home visitors; public health personnel; the investigation coordinator; and any other community supports, as appropriate.

### **Services for the Infant**

**Citation: DFS Pol. Man., § D-7**

All infants born with and identified as being affected by substance abuse or withdrawal symptoms or FASD will have a POSC prior to discharge to ensure the safety and well-being of the infant and family. The health and substance abuse disorder treatment needs of the infant and affected family or caregiver will be addressed through referrals and delivery of appropriate services, and there will be a monitoring system to ensure that local entities are providing such referrals and delivery of services.

### **Services for the Parents or Other Caregivers**

**Citation: DFS Pol. Man., § D-7; DFS User Man., D-15**

All infants born with and identified as being affected by substance abuse or withdrawal symptoms or FASD will have a POSC prior to discharge to ensure the safety and well-being of the infant and family. The health and substance abuse disorder treatment needs of the infant and affected family or caregiver will be addressed through referrals and delivery of appropriate services, and there will be a monitoring system to ensure that local entities are providing such referrals and delivery of services.

Prior to discharge, hospital education should be provided to the family as well as any referrals to appropriate home visiting programs. The infant's first pediatric appointment should be scheduled prior to discharge.

## Monitoring Plans of Safe Care

**Citation: Ann. Code Tit. 16, § 906B; DFS User Man., D-15**

DFS shall document the following information in its internal information system for all notifications of infants with prenatal substance exposure under this chapter:

- The number of infants identified as being affected by substance abuse, withdrawal symptoms, or FASD
- The number of infants for whom a plan of safe care was developed, implemented, and monitored
- The number of infants for whom referrals were made for appropriate services, including services for the affected family or caregiver
- The implementation of such plans to determine whether and in what manner local entities are providing, in accordance with State requirements, referrals to and delivery of appropriate services for the infant and affected family or caregiver

In addition to any required Federal reporting requirements, the division, with assistance from the Department of Health and Social Services and the investigation coordinator, shall provide an annual report to the Child Protection Accountability Commission and Child Death Review Commission summarizing the aggregate data gathered on infants with prenatal substance exposure.

*In policy:* The POSC coordinator will be responsible for the ongoing review of the POSC and any referrals or community linkages completed throughout the life of the family's involvement with DFS after discharge. The POSC should be reviewed at a minimum bi-weekly within the first 30 days with a minimum contact schedule (frequency of contact) of bi-weekly within the first 30 days. In determining the contact schedule of the infant and family, a balanced assessment should take place considering the needs, strengths, risk level, support system (internal and external), and any postdischarge conditions of the infant that may arise.

The POSC coordinator will be responsible for determining how long the POSC remains in place and should include input and collateral information from the multidisciplinary POSC members as well as an ongoing assessment of the risks, needs, complicating factors, and supports and services in place. The POSC should be updated as needed to continuously monitor additional needs identified and referrals for service. The POSC is a fluid plan and the length of the POSC is dependent upon the infant and his or her family.

If the POSC coordinator determines that the family needs ongoing services, and the family is not already active in treatment, the case will be referred for ongoing services. If the POSC is still in place, the POSC coordinator will be the assigned caseworker. The assigned caseworker will then be responsible for the review of the POSC and any monitoring of referrals or services. The referrals and services may also be incorporated in the family's service plan.

Upon closure of the case by DFS, the most updated POSC shall be provided to the family who has the option to continue services and monitoring by community services and resources. When the case is closed, the POSC participants shall be notified that the POSC is being terminated by DFS but that the family may continue with their services and resources.

## **DISTRICT OF COLUMBIA**

*Current Through August 2019*

### **Definitions**

**Citation: Ann. Code § 16-2301**

The term 'neglected child' includes a child who 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.

### **Notification/Reporting Requirements**

**Citation: Ann. Code § 4-1321.02**

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

### **Assessment of the Infant and Family**

This issue is not addressed in the statutes and regulations reviewed.

### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **FLORIDA**

*Current Through August 2019*

### **Definitions**

**Citation: Ann. Stat. § 39.01**

The term 'neglects the child' means that the parent or other person responsible for the child's welfare exposes a child to a controlled substance or alcohol. Exposure to a controlled substance or alcohol is established by a test administered at birth that indicates that the child's blood, urine, or meconium contains 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.

### **Notification/Reporting Requirements**

**Citation: Ann. Stat. § 39.201; DCF Oper. Proc. # 170-8**

Any person who knows, or has reasonable cause to suspect, that a child is neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, shall report such knowledge or suspicion to the Department of Children and Families (DCF).

Each report of known or suspected child neglect by a parent, legal custodian, caregiver, or other person responsible for the child's welfare shall be made immediately to the department's central abuse hotline. Personnel at the department's central abuse hotline shall determine if the report received meets the statutory definition of child abuse, abandonment, or neglect. If it is determined by a child welfare professional that a need for community services exists, the department shall refer the parent or legal custodian for appropriate voluntary community services.

*In policy:* Attending health-care providers are required to identify and refer all infants prenatally exposed to controlled substances and alcohol for early intervention, remediation, and prevention services.

### **Assessment of the Infant and Family**

**Citation: Ann. Stat. § 383.14; DCF Oper. Proc. # 170-8**

The Department of Health shall promote the identification and screening of all newborns in this State and their families for environmental risk factors such as low income, poor education, maternal and family stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services, including, but not limited to, parent support and training programs, home visitation, and case management. Identification, perinatal screening, and intervention efforts shall begin prior to and immediately following the birth of the child by the attending health-care provider. Such efforts shall be conducted in hospitals, perinatal centers, county health departments, school health programs that provide prenatal care, and birthing centers, and reported to the Office of Vital Statistics.

*In policy:* Identification of the use of alcohol and/or illegal substances shall be determined as follows:

- The mother's admission of use
- A positive drug screen (prenatal or at birth)
- Medical staff assessment

To determine the appropriate intervention efforts needed to assist with maternal entry or retention in substance use treatment, enhancement of child well-being, and the development of family skills to facilitate healthier lifestyles, child welfare professionals shall obtain and assess the following information:

- The mother's substance use needs:
  - Substance use history
  - Mental health history
  - Treatment history
  - Medication-assisted treatment history
  - Referrals for services
- The infant's medical care:
  - Prenatal exposure history
  - Hospital care, length of stay, and diagnosis
  - Other medical or developmental concerns
  - Pediatric care and follow-up
  - Referral to early intervention and other services
- The mother's medical care:
  - Prenatal care and pregnancy history
  - Other medical concerns
  - Screening and education
  - Follow-up obstetrics care
  - Referral to other health-care services



- Family/caregiver history and needs:
  - Prior involvement with child welfare
  - Child safety or risk concerns
  - Parent-child relationship
  - Family history
  - Living arrangements
  - Current support network
  - Current services
  - Needed supports or services

### **Responsibility for Development of the Plan of Safe Care**

**Citation: DCF Oper. Proc. # 170-8**

DCF must develop, implement, and monitor a plan of safe care (POSC) for infants under age 1 who have been affected by exposure to controlled substances or alcohol. Controlled substances include both prescription drugs not prescribed for the parent or not administered as prescribed.

A POSC is intended to facilitate a holistic, multidisciplinary approach to responding to the needs of the entire family. A POSC is intended to be developed at the earliest point the mother's use or infant's exposure has been identified.

At the point of the child welfare professional's contact with the family, a POSC may already have been developed by medical personnel, behavioral health specialists, or home visitor staff who regularly interact with the mother prior to, or soon after, the birth of the infant. It is the child welfare professional's responsibility to determine if a POSC had previously been offered to the mother and, if not, reassess the need for a plan to be implemented and monitored.

All infants and mothers affected by prenatal substance exposure shall be referred to a home visitor program (e.g., Healthy Start, Healthy Families, etc.) or family support program (e.g., high or very high-risk assessment score) for development of a POSC and care coordination.

At any point a child welfare professional identifies that an infant under age 1 has been affected by prenatal exposure to alcohol or controlled substances, a referral to a home visiting program for development and implementation of a POSC shall be discussed with the parent or caregiver.

### **Services for the Infant**

**Citation: DCF Oper. Proc. # 170-8**

All attending health-care providers are required to refer infants identified as prenatally exposed to alcohol and controlled substances for early intervention, remediation, and prevention services. This process typically begins when Healthy Start staff offer universal risk screening for all pregnant women and infants to ensure that preventive care is directed as early as possible to prevent or minimize adverse outcomes. In some instances, child welfare professionals may determine a need for postbirth screening and services or hospitalization.

In addition to the services provided by home visitor programs, infants diagnosed with neonatal abstinence syndrome with evidence of clinical symptoms, such as tremors, excessive high-pitched crying, hyperactive reflexes, seizures, poor feeding, and sucking, shall be referred to Early Steps. Early Steps is Florida's early intervention system that offers services to eligible infants and toddlers (birth to 36 months) with significant delays or a condition likely to result in a developmental delay. Early intervention is provided to support families and caregivers in developing the competence and confidence to help their children learn and develop.

## Services for the Parents or Other Caregivers

**Citation: DCF Oper. Proc. # 170-8**

When initiated on a voluntary basis, the Healthy Start coalition will collaborate with other stakeholders and partners to provide services for infants and families affected by prenatal exposure to alcohol and controlled substances, including but not limited to, the following:

- Other home visitor programs
- Healthy Families Florida
- Providers of Healthy Start services
- County health department(s)
- Child Protection Team
- Prenatal and pediatric care, hospitals and birthing centers
- Children's Medical Services providers
- Substance abuse treatment providers
- DCF and their contracted providers (e.g., community-based care lead agencies, managing entities)

Healthy Start typically provides a range of services to identified women and infants including, but not limited to, the following:

- Information, referral, and ongoing care coordination and support to assure access to needed services
- Psychosocial, nutritional, and smoking cessation counseling
- Childbirth, breastfeeding, and substance abuse education
- Home visiting
- Interconception education and counseling

## Monitoring Plans of Safe Care

**Citation: DCF Oper. Proc. # 170-8**

To monitor the efficacy of referrals and voluntary service provision, Healthy Start coalitions typically enter into and maintain interagency agreements to ensure coordinated, multiagency assessment of and intervention for the health, safety, and service needs of women who abuse alcohol or other drugs during pregnancy and of substance-exposed children up to age 3.

In monitoring the efficacy of referral and service provision, contract management services will assess standards and criteria for transition of care and the development of interagency agreements, as provided in *Healthy Start Standards & Guidelines 2007*, Chapter 13, Transition and Interagency Agreements. Contract monitoring shall emphasize outcome data for infants receiving neonatal intensive care and infants and toddlers served by Early Steps in Children's Medical Services.

To monitor the efficacy of referrals and service provision on both a voluntary and nonvoluntary basis (i.e., judicial and nonjudicial department interventions), the Office of Contract Services, through the community-based Contract Oversight Team, will monitor service delivery related to POSCs in the following four specific areas of operation:

- Quality management and performance improvement, including the following:
  - Data analysis
  - Performance improvement strategy (as needed)
- Practice competency
- Partner relationships
- Community relationships

## GEORGIA

Current Through August 2019

### Definitions

**Citation: Ann. Code § 15-11-2(56); DCFS Child Welf. Pol. Man., Pol. # 19.27**

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 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

*In policy:* An infant 'affected by prenatal exposure to substance use' means the following:

- The infant is experiencing symptoms of withdrawal or exhibiting harmful effects in his or her physical appearance or functioning due to exposure to substances (legal or illegal).
- The infant has tested positive for the presence of a substance or a metabolite thereof in his or her body, blood, urine, or meconium.
- The infant has symptoms of a fetal alcohol spectrum disorder.
- The mother tested positive for illegal substances at the birth of the infant.
- The mother tested positive for prescription drugs due to misuse at the birth of the infant.
- The mother self-disclosed at the birth of the infant a substance or alcohol use problem and use during pregnancy.

'Fetal alcohol spectrum disorders' (FASD) are a set of conditions that can affect infants born to mothers who drank alcohol during pregnancy. Children with FASD may experience mild to severe physical, mental, behavioral, and/or learning disabilities, some of which may have lifelong implications (e.g., brain damage, physical defects, attention deficits). Symptoms of FASD can include facial abnormalities, growth deficiencies, skeletal deformities, organ deformities, central nervous system handicaps, and behavioral problems. FASD diagnostic conditions include the following:

- Type I: Fetal alcohol syndrome with confirmed maternal exposure
- Type II: FAS without confirmed maternal exposure
- Type III: Alcohol-related birth defects
- Type IV: Alcohol-related neurodevelopmental disorder

'Neonatal abstinence syndrome', formerly known as 'withdrawal symptoms,' may occur when a pregnant woman takes drugs such as heroin, codeine, oxycodone, methadone, or buprenorphine. Because the baby is no longer getting the drug after birth, the withdrawal may occur as the drug is slowly cleared from the baby's system. Symptoms may appear within a few hours of birth to 14 days after birth and depend on the type of substance used, length of time used, etc. Symptoms generally include blotchy skin coloring (mottling), diarrhea, excessive crying or high-pitched crying, excessive sucking, fever, hyperactive reflexes, increased muscle tone, irritability, poor feeding, rapid breathing, seizures, sleep problems, slow weight gain, stuffy nose, sneezing, sweating, trembling (tremors), and vomiting.

## **Notification/Reporting Requirements**

**Citation: DCFS Child Welf. Pol. Man., Pol. # 3.7; 19.27**

The Division of Family and Children Services (DFCS) shall receive intake reports involving the following:

- Substance use or abuse, alleging child maltreatment involving the caregiver's substance/alcohol use or abuse and the caregiver's ability to meet the needs of his or her children
- Prenatal exposure, involving infants identified as being affected by substance abuse (illegal and/or legal), withdrawal symptoms resulting from prenatal drug exposure, or FASD, as follows:
  - Prenatal abuse, alleging child maltreatment involving infants who, while in the womb, are exposed to chronic or severe use of alcohol or the unlawful use of any controlled substance that results in 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; or medically diagnosed and harmful effects in a newborn's physical appearance or functioning
  - Prenatal exposure, with no allegation of child maltreatment

Note: All intakes involving prenatal exposure require the development of a plan of safe care (POSC).

While prenatal exposure may include cases with child maltreatment (prenatal abuse), not all cases requiring a POSC involve maltreatment. Some examples of cases involving prenatal exposure with no allegations of maltreatment are as follows:

- The infant is prenatally exposed resulting from the mother's use of prescribed medication for an illness. The mother is following her medication and treatment plan, as verified by her health-care provider.
- The infant is prenatally exposed resulting from the mother being given prescribed medication during the delivery process.
- The infant is prenatally exposed due to the mother's participation in a medication-assisted treatment (MAT) program for a substance use disorder. The mother is complying with her medication and treatment plan, as verified by the substance treatment provider and her health-care provider.

## **Assessment of the Infant and Family**

**Citation: DCFS Child Welf. Pol. Man., Pol. # 19.27**

DFCS shall do the following:

- Assess the health and substance use needs of the infant, caregiver, and other family members
- Conduct a POSC meeting within 5 calendar days of receiving the substance abuse assessment from the substance use disorder treatment provider, when maltreatment is alleged or within 14 calendar days of the intake notification that contain no allegations of maltreatment
- Ensure that the POSC addresses the following:
  - The health and substance abuse treatment needs of the infant and parent or caregiver
  - The needs of the other family members affected by the substance use
- Identify the agency responsible for monitoring the POSC
- Monitor the POSC to determine whether referrals are made and delivery of appropriate services to the affected infant, family, or caregiver

The social services case manager will do the following:

- Assess the health and substance use disorder needs of the infant, caregiver, and other family members
- Review and analyze the information gathered from the assessment to determine the health and substance use needs of the infant, caregiver, and other family members, including, but not limited to, the following:
  - Substance use disorder assessment from the substance use disorder treatment provider
  - Other assessments conducted

- Health information collected from the medical provider for the infant, other children, and mother (e.g., hospital discharge records, etc.)
- Interviews with the mother, other caregivers, and other family members
- Observation of the infant, other children, and caregivers
- Observation of the home
- Other information, as appropriate
- Initiate a staffing with the social services supervisor to discuss the following:
  - The impact of the substance/alcohol use by the mother and any other caregivers in the home on the care and protection of the infant and other children in the home
  - The mother's compliance with MAT, if applicable
  - The mother and other caregiver's functioning, including physical health, mental health, life management, relationships, and parenting, etc.
  - The health care, developmental, or other needs of the infant and any other children in the home
  - Current formal or informal supports

### **Responsibility for Development of the Plan of Safe Care**

**Citation: DCFS Child Welf. Pol. Man., Pol. # 19.27**

DFCS, in partnership with other agencies providing services to the family, shall develop and implement a POSC for families with infants identified as being affected by substance abuse (illegal or legal), or withdrawal symptoms resulting from prenatal drug exposure, or FASD.

The POSC incorporates into one document the plans from various agencies providing services to the family, such as the child welfare assessment, hospital discharge plan, substance use treatment case plan, and prenatal care plan to address the medical, behavioral, developmental, social, and emotional well-being of the family. Coordinated services to the family ensures timely access to a continuum of care, minimizes barriers to accessing care, improves infant and maternal outcomes, and facilitates identification of the family's overall needs and engagement into the appropriate services.

The POSC is required when a health-care provider has identified that an infant has been affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure, or FASD. This identification may occur during any stage of DFCS involvement, including at birth or later during the infant's development and/or as symptoms manifest. DFCS may develop the POSC prior to the birth of an infant, if child welfare is providing services due to other children in the home and the family agrees.

### **Services for the Infant**

**Citation: DCFS Child Welf. Pol. Man., Pol. # 19.27**

A POSC should address the following:

- The following needs of the infant:
  - Health care, as follows:
    - Identification of a consistent pediatrician/health-care provider
    - Referral to specialty care, as indicated
    - High-risk follow-up care
  - Safety with the caregivers
  - Developmental screening and assessment
  - Linkage to early intervention services
  - Early care and education program

- The following needs of other children in the home:
  - Identification of a consistent pediatrician/health-care provider
  - Safety with the caregivers
  - Developmental screening and assessment
  - Linkage to early intervention services
  - Early care and education program

### **Services for the Parents or Other Caregivers**

**Citation: DCFS Child Welf. Pol. Man., Pol. # 19.27**

A POSC should address the following:

- The following needs of the mother:
  - Health care, as follows:
    - Identification by the mother of a consistent and stable primary caregiver
    - Medication management
    - Pain management
    - Breast feeding, if recommended by the physician
  - Substance use and mental health care, including the following:
    - Timely access
    - Engagement, retention, and recovery supports
    - Appropriate treatment that is gender-specific, family focused, accessible, and trauma responsive and may include medication assisted treatment
    - Treatment for depression, anxiety, or domestic violence, as needed
    - Appropriate assessments and treatment services
  - Parenting/family support
  - Coordinated case management/home visits to assess infant care, parent/infant bonding, nurturing, mother's understanding of the special care needs of the infant(s) and ability to provide such care, parenting guidance and skill development, safe sleep practices, and maternal support
  - Child care
  - Benefits/eligibility determination for employment support, housing, and transportation
  - Supportive network (having relationships and social networks that provide support, friendship, love, and hope)
- The following needs of other family members:
  - Substance use disorder assessment and treatment
  - Mental health assessment and treatment
  - Pain management
  - Medication management
  - Parenting skills (e.g., bonding, nurturing, understanding of the special care needs of the infant and the ability to provide it, safe sleep practices, etc.)
  - Their ability to meet the care and protection needs of the infant and any other children living in the home

### **Monitoring Plans of Safe Care**

**Citation: DCFS Child Welf. Pol. Man., Pol. # 19.27**

DCFS will do the following:

- Follow up with other parties responsible for making referrals to determine if the referrals have been made and/or initiated, including, but not limited to, the following:

- Substance use disorder treatment and/or any other recommendations from the substance use disorder assessment
- Medical services for the infant, mother, and other household members
- Referrals for developmental screening and any subsequent services for the infant and other children in the home
- Engage the parents or caregivers to determine if services have been initiated and are being provided in accordance with the plan

Ensuring the services identified in the POSC are implemented is critical to assuring the ongoing health and substance abuse needs of the infant and family. The POSC will address actions and services for the infant and family's needs that support the family achieving long-term recovery. Therefore, the needs must be incorporated into the case plan if the case is transferred to family preservation services or foster care to ensure ongoing monitoring. If the family does not continue child welfare services with DFCS, another individual or agency must be identified to monitor the POSC. This could be the medical provider or other providers already involved with the family and who can obtain information to monitor the plan.

## **GUAM**

*Current Through August 2019*

### **Definitions**

This issue is not addressed in the statutes reviewed.

### **Notification/Reporting Requirements**

This issue is not addressed in the statutes reviewed.

### **Assessment of the Infant and Family**

This issue is not addressed in the statutes reviewed.

### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes reviewed.

### **Services for the Infant**

This issue is not addressed in the statutes reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes reviewed.

## **HAWAII**

*Current Through August 2019*

### **Definitions**

This issue is not addressed in the statutes and regulations reviewed.

**Notification/Reporting Requirements**

This issue is not addressed in the statutes and regulations reviewed.

**Assessment of the Infant and Family**

This issue is not addressed in the statutes and regulations reviewed.

**Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

**Services for the infant**

This issue is not addressed in the statutes and regulations reviewed.

**Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

**Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

**IDAHO**

*Current Through August 2019*

**Definitions**

This issue is not addressed in the statutes and regulations reviewed.

**Notification/Reporting Requirements**

This issue is not addressed in the statutes and regulations reviewed.

**Assessment of the Infant and Family****Citation: Child Welfare Stds., Intake Screening**

When an infant tests positive for alcohol at birth and/or a mother tests positive for alcohol at the birth of her baby, and there are concerns the infant may meet the requirement for a fetal alcohol spectrum disorder diagnosis (as characterized by facial characteristics, growth restriction, or other birth defects caused by prenatal alcohol use), the Division of Child and Family Services will assess the threat to the infant and the family's ability to care for the needs of the infant.

**Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

**Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

**Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

**Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.



## ILLINOIS

*Current Through August 2019*

### Definitions

**Citation: Comp. Stat. Ch. 325, § 5/3; Ch. 20, § 301/1-10; DCFS Pol. Guide 2001.15**

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, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or the newborn infant.

The term 'substance use disorder' means a spectrum of persistent and recurring problematic behavior that encompasses 10 separate classes of drugs: alcohol; caffeine; cannabis; hallucinogens; inhalants; opioids; sedatives, hypnotics and anxiolytics; stimulants; and tobacco; and other unknown substances leading to clinically significant impairment or distress.

*In policy:* The term 'controlled substances' means those substances defined in chapter 720, § 570/102(f), including such drugs as heroin, cocaine, morphine, peyote, PSD, PCP, pentazocine, and methaqualone. Marijuana, hashish, and other derivatives of the plant cannabis sativa are not controlled substances.

The term 'substance-affected infants' means infants who are born with controlled substances in their system or who have been diagnosed with fetal alcohol syndrome.

### Notification/Reporting Requirements

**Citation: Comp. Stat. Ch. 325, § 5/7.3b; DCFS Pol. Guide 2001.15**

All persons required to report may refer to the Department of Human Services any pregnant person in this State who is addicted, as defined in the Substance Use Disorder Act.

*In policy:* Current Department of Children and Family Services (DCFS) policy does not require the mandatory provision of services to substance-affected infants and their families when a report is indicated; fetal alcohol syndrome or the presence of controlled substances in the blood, urine, or meconium of the infant is the only allegation present; and temporary protective custody of the substance-affected infant has not been taken. However, statistics indicate that nearly one-third of substance-affected infants will be neglected within the first year of their lives. Therefore, a more aggressive approach will be taken by the DCFS in the investigation, assessment, and provision of services to families with an indicated report involving infants who are born with fetal alcohol syndrome or controlled substances in their systems.

### Assessment of the Infant and Family

**Citation: Comp. Stat. Ch. 325, § 5/7.3a; DCFS Pol. Guide 2001.15**

The director of the (DCFS shall appoint a perinatal coordinator who shall be a physician licensed to practice medicine in all its branches with a specialty certification in pediatric care. Such coordinator, or other designated medical specialists, shall review all reports of suspected medical neglect involving newborns or infants, coordinate the evaluation of the subject of such report, and assist in necessary referrals to appropriate perinatal medical care and treatment. When the perinatal coordinator or other designated medical specialists, alone or in consultation with an infant care review committee established by a medical facility, determine that a newborn or infant child is being neglected, as defined in chapter 325, § 5/3, a designated employee of DCFS shall take the steps necessary to protect the newborn or infant child's life or health, including, but not limited to, taking temporary protective custody.

*In policy:* When investigators indicate reports involving substance-affected infants, they shall do the following:

- Conduct a thorough risk assessment that includes an on-site assessment of the environment in which the infant will be living and an assessment of the caregiver, other adults or children residing with the caregiver, and other persons who will be frequent visitors to the environment
- Take temporary protective custody and open a child welfare case if risk factors are present that place the child in imminent danger to the child's life or health
- Open a child welfare case even if temporary protective custody is not taken and refer the case to child welfare staff for a comprehensive assessment

### **Responsibility for Development of the Plan of Safe Care**

**Citation: Comp. Stat. Ch. 325, § 5/7.3b; DCFS Pol. Guide 2001.15**

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.

*In policy:* Child welfare staff, upon receiving referrals involving substance-affected infants, shall do the following:

- Refer the parents to a treatment agency licensed by the Department of Human Services (successor agency to the Department of Alcohol and Substance Abuse, per chapter 20, § 301/5-5) for an assessment to determine whether they have an alcohol or other drug abuse problem and need treatment
- Complete a client service plan that describes the monitoring and service activities for the family; the treatment plan for the parent and other substance-involved persons in the home; and the medical plan for the infant, even when the child has not been placed
- Provide services as dictated by the assessment and service plan

### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

**Citation: Comp. Stat. Ch. 20, § 301/35-5**

The Department of Human Services shall develop and maintain a comprehensive directory of service providers that provide treatment services to pregnant women, mothers, and their children in this State. The department may make the information available to recipients but may not require recipients to use specific sources of care. The department shall require that any nonresidential program receiving any funding for treatment services accept women who are pregnant, provided that such services are clinically appropriate.

The department shall create or contract with licensed, certified agencies to develop a program for the care and treatment of addicted pregnant women, addicted mothers, and their children. In implementing the programs, the department shall contract with existing residencies or recovery homes in areas having a disproportionate number of women who abuse alcohol or other drugs and need residential treatment and counseling. Priority shall be given to addicted and abusing women to whom the following apply:

- Are pregnant
- Have minor children
- Are both pregnant and have minor children
- Are referred by medical personnel because they either have given birth to a baby addicted to a controlled substance or will give birth to a baby addicted to a controlled substance

The services provided by the programs shall include, but not be limited to, the following:

- Individual medical care, including prenatal care, under the supervision of a physician
- Temporary, residential shelter for pregnant women, mothers, and children when necessary
- A range of educational or counseling services
- Comprehensive and coordinated social services, including substance abuse therapy groups for the treatment of alcoholism and other drug abuse and dependency, family therapy groups, programs to develop positive self-awareness, parent-child therapy, and residential support groups

### **Monitoring Plans of Safe Care**

**Citation: Comp. Stat. Ch. 325, § 5/7.3c; DCFS Pol. Guide 2001.15**

The Department of Human Services and DCFS shall develop a community-based system of integrated child welfare and substance abuse services for the purpose of providing safety and protection for children, improving adult health and parenting outcomes, and improving family outcomes.

DCFS, in cooperation with the Department of Human Services, shall develop case management protocols for DCFS clients with substance abuse problems. The departments may establish pilot programs designed to test the most effective approaches to case management. The departments shall evaluate the effectiveness of these pilot programs and report to the governor and the general assembly on an annual basis.

*In policy:* If the family is unwilling to accept the services described in the plan, but will allow DCFS to monitor the family, and the worker has determined that the child is not at imminent risk of harm because of the refusal to accept the services offered, the case shall be monitored for at least 6 months. Monitoring means a minimum of twice monthly face-to-face contacts with the infant and family and verification that appropriate medical care is being provided to the child. The supervisor may determine, based on the circumstances present, that only monthly contact is required but the reasons for this decision must be documented in the plan. Intact family cases that are being monitored may be closed after 6 months if it has been verified through random urinalysis testing conducted by a drug treatment professional that the parent and other members of the household are not using controlled substances and are no longer abusing alcohol.

If the family's refusal to accept services creates imminent risk to the child's health or safety—for example, continued drug or alcohol usage by the parent or others in the household that places the child at imminent risk of harm, violent behavior, denial of access to the child for monitoring to ensure the child's safety, failure to use an apnea monitor necessary for the child's health and protection, etc.—then the worker shall immediately report the incident to the State central register and request that investigative staff take temporary protective custody of the child.

## **INDIANA**

*Current Through August 2019*

### **Definitions**

**Citation: Ann. Code §§ 31-34-1-10; 31-34-1-11; 31-34-1-12; 31-34-1-13**

Except as provided in §§ 31-34-1-12 and 31-34-1-13, a child is a child in need of services (CHINS) if the following apply:

- 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.

A child is a child in need of services if the following apply:

- The child has an injury, has abnormal physical or psychological development, has 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.

A child is not a child in need of services as defined in § 31-34-1-10 or 31-34-1-11 of this chapter if the following are true:

- A drug detected in the body of the child as described in § 31-34-1-10 or the condition described in § 31-34-1-11 was caused by a legend drug.
- 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.

A child is not a child in need of services under § 31-34-1-10 or 31-34-1-11 if the following apply:

- 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 controlled substance.
- 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.

### **Notification/Reporting Requirements**

**Citation: Ann. Code § 31-33-5-1**

In addition to any other duty to report arising under this article, an individual who has reason to believe that a child is a victim of child abuse or neglect shall make a report as required by this article.

### **Assessment of the Infant and Family**

**Citation: DCS CW Man., Ch. 4, § 40**

The Department of Child Services (DCS) will consider using drug screening as a component of a comprehensive assessment of the family when there is an allegation of substance abuse or an indication that substance abuse may be a factor in the report of child abuse or neglect. Substance use or abuse may be a factor in assessments involving 1) the use of drugs during pregnancy or 2) the use of drugs that results in a child's physical or mental condition being seriously impaired or seriously endangered. The child's safety as well as the family's strengths, needs, and protective capacities will be assessed. Any indication of substance use or misuse (as evidenced by self-disclosure or drug-screening results) will be assessed to determine if the use/misuse contributed to the maltreatment of the child.

A pregnant woman's drug abuse may constitute child abuse and neglect and may be legally sufficient for a finding of CHINS, which requires the coercive intervention of the court to ensure the family receives the necessary services. Factors that should be considered in the comprehensive assessment along with drug screen results, include, but are not limited to, the following:

- Evidence that the child is born with fetal alcohol syndrome
- Evidence that the child is born with neonatal abstinence syndrome
- Evidence that the child is born with any amount of controlled substance, legend drug, or metabolite of a controlled substance or legend drug in child's body, including blood, urine, umbilical cord tissue, or meconium, absent a prescription or medical supervision
- Evidence that child has an injury, abnormal physical or psychological development, symptoms of neonatal intoxication or withdrawal that arises or is aggravated as a result of the mother of the child using alcohol, a controlled substance, or legend drug during pregnancy, absent a prescription or medical supervision
- Evidence that a child is at substantial risk of a life-threatening condition that arises or is substantially aggravated because of the mother of the child used alcohol a controlled substance or legend drug during pregnancy, absent a prescription or medical supervision

### **Responsibility for Development of the Plan of Safe Care**

**Citation: DCS CW Man., Ch. 4, § 42**

DCS will complete a plan of safe care (POSC) or review and update an existing POSC for each infant under the age 1 who is identified as being born affected by or exposed in utero to substance use (either legal or illegal substances), experiencing symptoms of withdrawal, diagnosed with neonatal abstinence syndrome, and/or diagnosed with fetal alcohol spectrum disorder. The plan will address the mental and physical health and substance use treatment needs of the infant, parent(s), household members, and the infant's caregiver(s).

The family case manager will do the following:

- Observe and assess the needs of each parent, household member, or caregiver
- Collaborate with each parent, household member, caregiver, child and family team member, and other professional partners and agencies involved in providing services for the infant, parent(s), household member(s), and caregiver(s) to develop a POSC
- Speak with the parents, guardians, and caregivers about safe sleep and document the discussion in the case management system
- Ensure the plan addresses the mental and physical health and substance use treatment needs of the infant and each parent, household member and/or caregiver
- Create a safety plan, if needed, to address immediate safety needs of the child
- Have each participating parent, adult household member, and caregiver who is listed on the POSC sign the plan and provide them with a copy of the plan

### **Services for the Infant**

**Citation: DCS CW Man., Ch. 4, § 42**

A POSC should address the needs of the infant, including the following services:

- Medical care (immediate, on-going, and emergency)
- Medical coverage
- Safe sleep
- Developmental screening and interventions
- Other supports, as needed

### **Services for the Parents or Other Caregivers**

**Citation: DCS CW Man., Ch. 4, § 42**

A POSC should include the following:

- The treatment needs of the parent(s), household member(s), caregiver(s), and infant

- Other identified needs that are not determined to be immediate safety concerns
- Utilization of community resources and extended family support systems
- A plan for continued family support beyond DCS involvement

Specific services that may be provided to the parents include the following:

- Substance use disorder assessment and treatment (including medication-assisted treatment)
- Medical care
- Mental health assessment and treatment
- Parenting support
- Safe housing
- Food
- Transportation
- Appropriate child care
- Referrals to community resources (including home visiting programs)

Extended family members are often the most resourceful and effective support for the family, and their interventions are often the least disruptive for the child involved. Family support services may consist of child care; transportation; home management assistance and teaching of skills; and financial assistance for housing, food, or clothing on a short-term basis.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **IOWA**

*Current Through August 2019*

### **Definitions**

**Citation:** Ann. Stat. §§ 232.68(2)(a)(6); 232.73

The term 'child abuse' or 'abuse' includes a situation in which 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 term 'medically relevant test' means a test that produces reliable results of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives of the illegal drugs, including a drug urine screen test.

### **Notification/Reporting Requirements**

**Citation:** Ann. Stat. § 232.77

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, that were not prescribed by a health practitioner, or if the health practitioner has determined through examination of the 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 assessment pursuant to § 232.71B upon receipt of such a report. A positive test result obtained prior to the birth of a child shall not be used for the criminal prosecution of a parent for acts and omissions resulting in intrauterine exposure of the child to an illegal drug.

If a health practitioner involved in the delivery or care of a newborn or infant discovers physical or behavioral symptoms in the newborn or infant that are consistent with the effects of prenatal drug exposure or a fetal alcohol spectrum disorder, the health practitioner shall report such information to the department in a manner prescribed by rule of the department.

### **Assessment of the Infant and Family**

**Citation: Ann. Stat. § 232.71B**

If the department determines a report constitutes a child abuse allegation, the department shall promptly commence either a child abuse assessment within 24 hours of receiving the report or a family assessment within 72 hours of receiving the report. Upon acceptance of a report of child abuse, the department shall commence a child abuse assessment when the report alleges child abuse as defined in § 232.68(2)(a)(5)-(11). The primary purpose of either the child abuse assessment or the family assessment shall be the protection of the child named in the report. The secondary purpose of either type of assessment shall be to engage the child's family in services to enhance family strengths and to address needs.

A child abuse assessment or family assessment shall include the following:

- A safety assessment and risk assessment
- An evaluation of the home environment
- Identification of the nature, extent, and cause of the injuries, if any, to the child named in the report
- Identification of the person or persons responsible for the alleged child abuse
- A description of the name, age, and condition of other children in the same home as the child named in the report
- An interview of the person alleged to have committed the child abuse, if the person's identity and location are known
- A visit to the home of the child named in the report and an interview or observation of the child
- A physical examination

A written assessment report shall identify the strengths and needs of the child and of the child's parent, home, and family. The report shall identify services available from the department and informal and formal services and other support available in the community to address the strengths and needs identified in the assessment.

### **Responsibility for Development of the Plan of Safe Care**

**Citation: Ann. Stat. § 232.71B**

Upon completion of the assessment, the department shall consult with the child's family in offering services to the child and the child's family to address strengths and needs identified in the assessment.

The department shall provide or arrange for and monitor services for abused children and their families on a voluntary basis or under a final or intermediate order of the juvenile court. The department may provide or arrange for and monitor services for children and their families on a voluntary basis for cases in which a family assessment is completed.

At the conclusion of a family assessment, the department shall transfer the case, if appropriate, to a contracted provider to review the service plan for the child and family. The contracted provider shall make a referral to the department abuse hotline if a family's noncompliance with a service plan places a child at risk.

### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **KANSAS**

*Current Through August 2019*

### **Definitions**

**Citation: Admin. Regs., § 30-46-10**

The term 'neglect' may include the birth of an infant who is identified as being affected by or having withdrawal symptoms resulting from prenatal exposure to a legal or an illegal substance.

### **Notification/Reporting Requirements**

**Citation: Ann. Stat. § 38-2223**

When any mandated reporter has reason to suspect that a child has been harmed as a result of physical, mental, or emotional abuse or neglect or sexual abuse, the person shall report the matter promptly as provided below. The report may be made orally and shall be followed by a written report if requested.

When reporting a suspicion that a child may be in need of care, the reporter shall disclose protected health information freely and cooperate fully with the Department for Children and Families (DCF) and law enforcement throughout the investigation and any subsequent legal process.

### **Assessment of the Infant and Family**

**Citation: Pol. & Proc. Man. § 1650; Appx. 1A; Appx. 2L**

When a report is received regarding an infant affected by substance abuse, withdrawal symptoms, or Fetal Alcohol Spectrum Disorder (FASD), Appendix 1A shall be used to guide the initial assessment decision. When criteria are met, the report shall be assigned for further assessment of abuse/neglect with the sub-type 'substance-affected infant.' The report shall be assigned for a same day response.

When a hospital makes a report regarding an infant born with positive drug toxicology and criteria is not met to assign the report as a 'substance-affected infant,' the report should be assessed to assign as a 'family in need of assessment' (FINA) with the sub-type 'infant positive for substances.' The assignment determination should focus on the situation of the child rather than solely on the substance abuse of the mother. If a determination is made to assign the report as 'infant positive for substances,' the report shall be assigned for a same day response due to the high-risk to the infant and to address any immediate needs of the family.

FINA assignments are specific family conditions that do not meet criteria to assign for abuse/neglect but are assigned to assess to determine whether services to the child and family are indicated.

The following guide provides factors to guide the assessment for a plan of safe care (POSC):

- The nature and extent of the effects of the prenatal substance use
- The infant's medical condition and any current or ongoing health-care needs or need for frequent monitoring (e.g., medications or specialized equipment)
- The nature and extent of the mother or father's substance abuse



- The extent to which the mother and father are responsive to the infant's needs and bonding with the infant
- History of prenatal care and preparation for the care of the infant
- Extent or history of domestic violence, mental illness, or cognitive limitations
- Extent to which the mother and father are involved with and capable of providing for and meeting the needs of the infant
- The nature and extent of the impact of the substance use on the mother or father's abilities to provide for the safety and well-being of the infant
- The nature and extent of the parents' family and social support system
- History of previous treatment for the mother and father and the response to treatment
- Caregiver protective capacity
- The parents' level of cooperation with any referrals for services, such as substance abuse treatment (if indicated) or assistance or training in the care of a newborn

### **Responsibility for Development of the Plan of Safe Care**

#### **Citation: Pol. & Proc. Man. § 2050**

Depending on the circumstances of the case, the POSC shall be completed by DCF or service provider based on the needs of the family to support successful engagement in services. The POSC is a continuous plan that is updated and monitored as needed.

The POSC is completed with the family and utilizes information gathered throughout the assessment from a multidisciplinary team. To develop a coordinated and comprehensive assessment of the needs of the infant and family, the multidisciplinary team may include, but not be limited to, personnel from the following:

- Child welfare
- Medical
- Substance use disorder treatment
- Mental health
- Early childhood intervention
- Home visitors
- Public health
- Other community supports, as appropriate

When identified early, the POSC ensures pregnant women using substances receive access to appropriate treatment, prenatal care, preparation for the birth of an infant who may experience neonatal abstinence syndrome, and follow-up after release from the hospital.

The POSC required by CAPTA differs from a safety plan that addresses the immediate safety. A POSC is a continuous and long-term plan for the family that focuses on the infant's ongoing health, development, safety, and well-being.

When a report is assigned 'substance-affected infant,' FINA with the sub-type 'infant positive for substances,' or 'pregnant woman using substances' (PWS), the CPS specialist shall determine whether criteria is met for a POSC within the assigned response time. The CPS specialist shall consult with the health-care provider with knowledge of the effects of any prenatal substance abuse on the infant. A POSC shall be completed when one or more of the following criteria are met:

- The mother has used/is using opioids or other substances during pregnancy, and/or the pregnant woman is participating or has participated while pregnant in a medication-assisted treatment program.
- A medical professional confirms the infant is affected by substance abuse, withdrawal symptoms, or FASD.

When criteria are unknown or not met for a POSC, the family-based assessment shall continue. If at any time during the life of the case additional information is available that meets criteria for a POSC, DCF or a service provider shall complete a POSC for the infant and family.

### **Services for the Infant**

**Citation: Pol. & Proc. Man. § 2050**

A POSC is a continuous plan for the family that focuses on the infant's ongoing health, development, safety, and well-being. The family shall be informed that the purpose of the POSC is identifying the needs of the infant and family to provide services with the goal of maintaining the infant and any other children safely in the home.

### **Services for the Parents or Other Caregivers**

**Citation: Pol. & Proc. Man. § 2050**

Prior to the infant's release from the hospital, DCF shall list the needs of the infant and family members on the POSC. When DCF receives the report after the infant has been released from the hospital, or if the case is assigned for a PWS, the POSC shall be initiated as soon as possible, not to exceed 3 working days from the initial contact.

Once the needs are identified, a referral for services with community programs or family preservation services (FPS) shall be offered to the family to provide the services and/or assist the family in locating appropriate services to meet the needs identified in the POSC. Whenever possible, the service provider should be able to continue to monitor the POSC by identifying the services and make referrals for the services to meet the needs identified on the POSC care for the infant and family.

The POSC identifies the needs of the infant and family and the services to meet those needs. The POSC incorporates the following needs of the infant and family:

- The physical health, substance use disorder treatment needs, general functioning, development, safety, and any special care needs of the infant who may be experiencing neurodevelopmental, physical effects or withdrawal symptoms from prenatal exposure
- The physical/social/emotional health, substance use disorder treatment needs of the parent(s)/caregiver(s)
- Services and supports to strengthen the parent/caregiver's capacity to nurture and care for the infant

In addition, the POSC shall address the caregiver and other family member's physical/social/emotional health, substance use disorder treatment, parenting capacity, and preparation to care for the infant.

### **Monitoring Plans of Safe Care**

**Citation: Pol. & Proc. Man. § 2050**

The POSC requires monitoring of referrals to and delivery of appropriate services for the infant and family. POSCs may continue with service providers in addition to and after DCF involvement with the family.

If following concerted efforts of engagement, the family selects not to participate in the POSC, the CPS specialist or the service provider shall document the family's decision not to participate. The POSC, containing the identified needs and recommended services, shall be provided to the family in the event the family seeks other community services on their own. The CPS specialist shall explain to the family that they may want to share the POSC with other community providers and resources to seek services on their own.

The POSC is updated as needed to monitor additional needs identified and referrals for services. The POSC shall be monitored to determine whether referrals are made to appropriate services and whether services are delivered to the infant and family or caregiver.

Upon closure of a family service/family preservation case, the POSC shall be provided to the family. The family has the option to continue services and monitoring by community services and resources.

## **KENTUCKY**

*Current Through August 2019*

### **Definitions**

**Citation: Rev. Stat. § 222.005; Admin. Regs. Tit. 922, § 1:330**

The term 'substance use disorder' means a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using the substance despite significant substance-related problems. Criteria for substance use disorder are in the most current edition of the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*.

*In regulation:* The term 'assessment' means the collection and analysis of information to inform decision-making about or service provision to a child or a family, including the following:

- An observable threat or threatening condition to the child's safety
- A factor present that increases the likelihood of child abuse, neglect, or dependency
- Child or family strengths and protective capacities

### **Notification/Reporting Requirements**

**Citation: Rev. Stat. § 214.160**

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, 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.

### **Assessment of the Infant and Family**

**Citation:** Admin. Regs. Tit. 922, § 1:330

The cabinet shall investigate or conduct an assessment upon receipt of a report that alleges neglect of a child perpetrated by a caregiver that may result in harm to the health and safety of a child who is at risk of harm if the child is born exposed to drugs or alcohol, as documented by a health-care provider.

### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **LOUISIANA**

*Current Through August 2019*

### **Definitions**

**Citation:** Children's Code Art. 603

The term 'prenatal neglect' means exposure to chronic or severe use of alcohol or the unlawful use of any controlled dangerous substance, 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.

### **Notification/Reporting Requirements**

**Citation:** Children's Code Art. 610(G); Rev. Stat. § 40:1086.11

If a physician has cause to believe that a newborn was exposed in utero to an unlawfully used controlled dangerous substance, 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 as soon as possible, in accordance with this article. 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.

If a newborn exhibits symptoms of withdrawal or other observable and harmful effects in his or her physical appearance or functioning that a physician believes are due to the use of a controlled dangerous substance in a lawfully prescribed manner by the mother during pregnancy, the physician shall make a notification to the Department of Children and Family Services on a form developed by the department. Such notification shall not constitute a report of child abuse or prenatal neglect, nor shall it require prosecution for any illegal action.

A health-care provider shall be authorized to share any protected health information with the department for the purpose of complying with the notification requirement of this subpart.

The department shall promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this subpart. Such rules shall include, at minimum, all of the following:

- The manner in which the notification shall be made to the department
- The form and minimum required contents of the notification
- The plan to monitor the statewide system regarding the availability and delivery of appropriate services for newborns and affected families and caregivers

### **Assessment of the Infant and Family**

**Citation: DSS Pol. Man. § 4-518(II)(D), (F)(4)**

Important factors to consider when assessing safety involving substance-exposed newborns include the following:

- The mother's acknowledgement or lack of acknowledgement of substance abuse issues
- The mother's prior agency and substance abuse history
- The mother's behavior and interaction/bonding with the newborn
- The family's support system
- The family's level of cooperation with the agency
- The home environment (including necessary newborn items and safe sleep)
- Mental health issues or the presence of domestic violence
- Assessment of all other adults and children living in the home

To ensure that a plan of safe care addresses the needs of the substance-exposed newborn and the family, an assessment must be made to determine if a referral to family services or foster care is needed. When the case is transferred, the caseworker should discuss the following available information during the staffings involving the newborn:

- The infant's drug or alcohol exposure, as verified by toxicology reports, or observable harmful effects, as verified by a physician
- Parental protective capacities of the mother and any other adult caregivers both in and out of the home
- Review of safety assessments and the safety plan, as applicable
- Any previous assessments and reports with valid findings, history of child abuse or neglect, mental illness, and substance abuse
- The status of substance abuse assessment of the mother and, when indicated, the father or other adult caregiver
- Prenatal care history and mother's substance use during this pregnancy and any previous pregnancies
- Postnatal information, including the infant's current condition and/or special needs or disabilities
- Information on the parent's mental health concerns, such as postpartum depression and any co-occurring disorder
- Evidence of preparation and safe care for the infant, such as a crib, clothing, and formula

- The presence of other children in the home and their current care and condition
- Family strengths, involvement of the infant's father and other family members, any history of agency involvement, and parental ability to use services to improve conditions
- Services and/or referrals provided during the investigation
- Assessment of parental attachment (bonding and ability to parent the infant and any other siblings) of the mother, father of the infant, and other children in the home
- Name and contact information for the father and other relatives of the infant/children in the home

### **Responsibility for Development of the Plan of Safe Care**

**Citation: DSS Pol. Man. § 4-518(I), (II)(F)(1)-(2)**

It is the policy of the Department of Children and Family Services (DCFS) to investigate reports of prenatal neglect. DCFS responsibility under Federal and State law is to assure there are plans for the safe care (POSC) for these vulnerable newborns.

All newborns exposed/affected by substance abuse need a POSC. This also includes those cases that have been deemed invalid due to the mother having a verified prescription and taking it in a lawfully prescribed manner; however, the newborn had withdrawal symptoms. A POSC is required by Federal law and is designed to meet both the short-term and long-term needs of the family related to a substance-exposed newborn.

### **Services for the Infant**

**Citation: DSS Pol. Man. § 4-518(II)(D), (F)(1)**

If the safety assessment is safe and there are supports for the mother and/or treatment services available, the newborn may be able to be discharged to his mother's care with a POSC that includes necessary services and on-going monitoring of the child's safety. Services such as home health, Homebuilders (where available), substance abuse treatment, Early Steps, and assistance from a spouse/partner or family member may provide sufficient safety for the newborn to remain with his or her family.

The newborn must be referred to an early intervention program to assure compliance with the Federal Child Abuse Prevention and Treatment Act requirement for referral for children under age 3 who are at risk for a developmental delay and/or is a victim of abuse/neglect.

### **Services for the Parents or Other Caregivers**

**Citation: DSS Pol. Man. § 4-518(II)(F)(1)-(3)**

A POSC includes numerous components, depending on the needs of the family, including the following:

- Risk and safety assessments
- Safety plans
- Substance abuse assessment/services
- Early Steps services for the newborn
- Medical services needed to meet the ongoing health needs of the newborn and his or her family
- Mental health services

A referral for substance abuse treatment services shall be initiated during the investigation when the mother is not already in a treatment program. An assessment of the mother is required. If the mother is not already in substance abuse treatment, this assessment is to occur through a formal substance abuse assessment conducted through the local governing authority or community provider credentialed to conduct a substance

abuse assessment. To obtain an accurate assessment, it is critical to obtain a release-of-information form from the mother so background information can be shared with the assessor. The results of the assessment are a consideration in determining whether family services are needed or not. Random drug screens also are recommended as part of the assessment. It is recommended that all primary caregivers for the newborn undergo a formal substance abuse assessment.

Families should be referred for emergency services as needed when the POSC includes the newborn remaining in the home. Some of these services may include the following:

- Homebuilders
- Family resource centers
- Maternal, Infant, and Early Childhood Home Visiting Services

### **Monitoring Plans of Safe Care**

**Citation: DSS Pol. Man. § 4-518(II)(F)(3)**

The caseworker should discuss the following available information during the staffings involving substance-exposed newborns:

- The infant's drug or alcohol exposure, as verified by toxicology and meconium reports of infant; toxicology reports on the mother; or observable harmful effects, as verified by a physician
- Parental protective capacities (including any diminished protective capacities) of the mother and any other adult caregivers, both in and out of the home
- Review of safety assessments (current and impending danger) and safety plan, as applicable
- Information about any previous assessments and reports with valid findings, history of child abuse/neglect, mental illness, and substance abuse in applicable domains
- The status of substance abuse assessments of the mother and, when indicated, the father or other adult caregivers
- Prenatal care history and mother's substance use during this pregnancy and any indication of substance use during any previous pregnancies
- Postnatal information, including the infant's current condition and/or special needs or disabilities
- Recommendations for care and any referrals at discharge, such as home health
- Information on the parents' mental health concerns, such as postpartum depression and any co-occurring disorders
- Evidence of preparation and safe care for the infant, such as a crib, clothing, and formula
- The presence of other children in the home and their current care and condition
- Family system, strengths, involvement of infant's father and other family members, any history of agency involvement, and parental ability to use services to improve conditions
- Services and/or referrals, including Early Steps or Maternal, Infant and Early Childhood Home Visiting services, provided during the investigation
- Assessment of parental attachment (bonding and ability to parent the infant and any other siblings) of the mother, fathers of the infant, and other children in the home
- The names and contact information for the father and other relatives of the infant/children in the home

## MAINE

*Current Through August 2019*

### Definitions

**Citation: Rev. Stat. Tit. 22, § 4002**

*Effective September 19, 2019:* The term 'fetal alcohol spectrum disorder' (FASD) means a condition whose effects include having facial characteristics, growth restriction, central nervous system abnormalities, or other characteristics consistent with prenatal alcohol exposure identified in a child from birth to 12 months of age.

### Notification/Reporting Requirements

**Citation: Rev. Stat. Tit. 22, § 4011-B; CFS Pol. Man. § IV.C-2**

*Effective September 19, 2019:* 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; 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 FASD, shall notify the Department of Health and Human Services of that condition in the infant. The notification 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.

*In policy:* The Bureau of Child and Family Services has the responsibility to respond to reports from health-care providers that an infant has been born that is affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure to either legal or illegal drugs, regardless of whether the infant is abused or neglected. Once a report is received, the department must assure a plan of safe care for the infant.

Reports of drug-affected infants will be received at the centralized child protective services (CPS) intake unit and recorded in the same manner as all reports. All reports from health-care providers alleging that an infant has been born who is affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure (legal or illegal substances) will have the report type of 'drug-affected baby.' This type of report is selected even if there are also allegations of suspected abuse.

### Assessment of the Infant and Family

**Citation: Rev. Stat. Tit. 22, § 4004-B; CFS Pol. Man. § IV.C-2**

*Effective September 19, 2019:* 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 a fetal alcohol spectrum disorder, 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, have withdrawal symptoms resulting from prenatal drug exposure, or who have FASD
- Investigate promptly notifications received of infants born who may be affected by substance use, have withdrawal symptoms resulting from prenatal drug exposure, or who have FASD, as determined to be necessary by the department to protect the infant



- Determine whether each infant is affected by substance use, withdrawal symptoms resulting from prenatal drug exposure, or has FASD
- Determine whether the infant is abused or neglected and, if so, determine the degree of harm or threatened harm in each case
- Comply with § 4004(2)(E)-(F) for each infant who the department determines to be abused or neglected

*In policy:* CPS Intake will gather the following information from the health-care provider making the report:

- Which substances affected the infant
- The impact of the substances on the infant
- Medical care the infant is now receiving
- Medical care the infant will require in the immediate future
- Plan of care for the infant at discharge
- Whether the mother is receiving substance abuse or other services and who the providers are
- Whether the mother was under the influence of substances at the time of admission or at the time of birth

The intake caseworker will seek to obtain information on the following risk factors:

- Homelessness/transience
- Level of preparation by the mother and/or father for the infant's care and protection
- Other children of the mother in the long-term care of others

The intake caseworker will seek to obtain information about the presence of the following protective factors:

- Active engagement in substance abuse and/or other services
- Receipt of prenatal care
- Demonstration of appropriate responsiveness to the infant
- Evidence of a support system for the infant and mother (family, church, community-based services)
- Successful parenting of other children

### **Responsibility for Development of the Plan of Safe Care**

**Citation:** Rev. Stat. Tit. 22, § 4004-B(5)

*Effective September 19, 2019:* The department shall develop plan for safe care (POSC). For each infant who is determined to be affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or who has an FASD, the department shall develop, with the assistance of any health-care provider involved in the caregiver's or the child's medical or mental health care, a POSC for the infant and, in appropriate cases, refer the child or caregiver or both to a social service agency, a health-care provider, or a voluntary substance use disorder prevention service.

### **Services for the Infant**

**Citation:** CFS Pol. Man. § IV.C-2

Cases where the infant and/or the mother has had, does have, or is likely to have medical needs should be referred to Public Health Nursing or the visiting nursing program serving the area where the family is residing.

### **Services for the Parents or Other Caregivers**

**Citation:** CFS Pol. Man. § IV.C-2

Cases where the infant and/or the mother has had, does have, or is likely to have medical needs should be referred to Public Health Nursing or the visiting nursing program serving the area where the family is residing.

## **Monitoring Plans of Safe Care**

**Citation:** CFS Pol. Man. § IV.C-2

If a family refuses to work with the department or visiting nurse agency, the agency must report that fact immediately to the district office. If that occurs, the report will be opened by the district office, and an assessment process will take place and be documented in the narrative log of the report.

## **MARYLAND**

*Current Through August 2019*

### **Definitions**

**Citation:** Fam. Law § 5-704.2; Code of Regs. § 07.02.08.02

A 'newborn' is a child younger than 30 days old who is born or who receives care in the State. A newborn is 'substance-exposed' if the newborn displays any of the following:

- A positive toxicology screen for a controlled drug, as evidenced by any appropriate test after birth
- The effects of controlled drug use or symptoms of withdrawal resulting from prenatal controlled drug exposure, as determined by medical personnel
- The effects of a fetal alcohol spectrum disorder

*In regulation:* The term 'FASD' means fetal alcohol spectrum disorder, which is an umbrella term for the wide range of effects from prenatal alcohol exposure, including a broad array of physical defects and cognitive, behavioral, emotional, and adaptive functioning deficits.

'Local department' means the local Department of Social Services in the county where the mother of the substance-exposed newborn resides.

### **Notification/Reporting Requirements**

**Citation:** Fam. Law § 5-704.2; Code of Regs. § 07.02.08.03

A health-care practitioner involved in the delivery or care of a substance-exposed newborn shall make an oral report to the local department as soon as possible and make a written report to the local department no later than 48 hours after the contact, examination, attention, treatment, or testing that prompted the report.

A health-care practitioner is not required to make a report under this section under the following circumstances:

- The practitioner has knowledge that the head of an institution or the designee of the head or another individual at that institution has made a report regarding the substance-exposed newborn.
- The practitioner has verified, at the time of delivery, the following:
  - The mother was using a controlled substance as currently prescribed for the mother by a licensed health-care practitioner.
  - The newborn does not display the effects of withdrawal from controlled substance exposure, as determined by medical personnel.
  - The newborn does not display the effects of FASD.
  - The newborn is not affected by substance abuse.

To the extent known, an individual who makes a report under this section shall include in the report the following information:

- The name, date of birth, and home address of the newborn
- The names and home addresses of the newborn's parents
- The nature and extent of the effects of the prenatal alcohol or drug exposure on the newborn
- The nature and extent of the impact of the prenatal alcohol or drug exposure on the mother's ability to provide proper care and attention to the newborn
- The nature and extent of the risk of harm to the newborn
- Any other information that would support a conclusion that the needs of the newborn require a prompt assessment of risk and safety, the development of a plan of safe care for the newborn, and referral of the family for appropriate services

*In regulation:* To the extent known, a report made pursuant to this section also shall include the following information:

- The newborn's medical condition and any current or ongoing health-care needs, including an extended hospital stay prior to discharge, specific medical procedures, medication, specialized equipment, or ongoing monitoring
- Whether and when the newborn's mother had prenatal care
- The nature and extent of the mother's current drug use
- The extent to which the mother is responsive to the newborn's needs and is involved with providing care
- The extent of any limitation of the mother's cognitive skills
- The nature and extent of any history of mental illness
- The nature and extent of the impact of the prenatal alcohol or controlled drug exposure on the mother's ability to provide proper care and attention

#### **Assessment of the Infant and Family**

**Citation: Fam. Law § 5-704.2; Code of Regs. §§ 07.02.08.04; 07.02.08.05**

Within 48 hours after receiving the notification, the local department shall do the following:

- See the newborn in person
- Consult with a health-care practitioner with knowledge of the newborn's condition and the effects of any prenatal alcohol or drug exposure
- Attempt to interview the newborn's mother and any other individual responsible for care of the newborn

A report made under this section does not create a presumption that a child has been or will be abused or neglected.

*In regulation:* Within 48 hours after receiving a report of a substance-exposed newborn, the local department shall do the following:

- See the newborn in person
- Consult with a health-care practitioner with knowledge of the newborn's condition and the effects of any prenatal alcohol or controlled drug exposure
- Attempt to interview the newborn's mother and any other individual responsible for care of the newborn

Promptly after receiving a report, the local department shall assess the safety of and risk of harm to the newborn to determine whether any further intervention is necessary. The assessment may include, but is not limited to, consideration of the following:

- Prior child protective services involvement
- The mother's prior delivery of a substance-exposed newborn

- The nature and extent of the mother's alcohol and controlled drug use and treatment history
- The mother's level of cooperation and willingness to address concerns
- The extent and availability of the newborn's family or other individuals to assist with caregiving and the provision of other support
- Evidence of preparations for the newborn's birth
- The availability of stable housing with no apparent safety or health hazards
- The nature and extent of drug use in the home

#### **Responsibility for Development of the Plan of Safe Care**

**Citation: Fam. Law § 5-704.2; Code of Regs. § 07.02.08.05**

Promptly after receiving a report, the local department shall assess the risk of harm to and the safety of the newborn to determine whether any further intervention is necessary. If the local department determines that further intervention is necessary, the local department shall do the following:

- Develop a plan of safe care (POSC) for the newborn
- Assess and refer the family for appropriate services, including alcohol or drug treatment
- As necessary, develop a plan to monitor the safety of the newborn and the family's participation in appropriate services

*In regulation:* If intervention is necessary after the assessment, the local department shall do the following:

- Develop a POSC for the newborn
- Refer the family for appropriate services, including alcohol or controlled drug treatment
- As necessary, develop a plan to monitor the safety of the newborn and the family's participation in appropriate services

#### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

#### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

#### **Monitoring Plans of Safe Care**

**Citation: Fam. Law § 5-704.2**

The department shall, as necessary, develop a plan to monitor the safety of the newborn and the family's participation in appropriate services.

## **MASSACHUSETTS**

*Current Through August 2019*

#### **Definitions**

This issue is not addressed in the statutes and regulations reviewed.

#### **Notification/Reporting Requirements**

**Citation: Ann. Laws 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 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.

### **Assessment of the Infant and Family**

This issue is not addressed in the statutes and regulations reviewed.

### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **MICHIGAN**

*Current Through August 2019*

### **Definitions**

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

A 'controlled substance' is a drug or chemical that is regulated by the government. Controlled substances include illicitly used drugs or prescription medications.

The term 'passive exposure' refers to exposure to a substance that occurs through being in the presence of someone smoking, inhaling the substance, or coming in physical contact with the substance, but not actively using the substance themselves. Prenatal exposure is an example of passive exposure.

### **Notification/Reporting Requirements**

**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 of Health and Human Services. A report is not required 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.

### **Assessment of the Infant and Family**

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

Child Protective Services (CPS) will investigate complaints alleging that an infant was born exposed to substances not attributed to medical treatment when exposure is indicated by any of the following:

- A positive urine screen of the newborn
- A positive result from meconium or umbilical cord tissue testing
- Confirmation by a medical professional of withdrawal symptoms in a newborn that are not the result of medical treatment

Along with standard investigation activities that apply in all other cases, investigations involving substance- or alcohol-exposed infants also must include the following:

- Contact with medical staff to obtain confirmation of the following information:
  - Results of medical tests indicating that the newborn was exposed to substances and/or alcohol
  - The health and status of the newborn
  - Documented symptoms of withdrawal experienced by the newborn
  - Medical treatment the child or mother may need
- Observations of the parent's care of the newborn and the parent's response to the newborn's needs
- Interview with the newborn's parents and any relevant caregivers to assess the need for a referral for substance use prevention, treatment, or recovery services
- Assessment of the parent's capacity to adequately care for the newborn and other children in the home

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.

For guidance in assessing parent capacity and decision making, caseworkers should consider the following:

- Does the use extend to the point of intoxication, unconsciousness, or inability to make appropriate decisions for the safety of their child(ren)?
- Does the use of substances cause reduced capacity to respond to the child's cues and needs?
- Is there evidence to demonstrate difficulty regulating emotions or controlling anger?
- Are negative emotions, such as aggressiveness or impulsivity, regularly demonstrated?
- Is there an appearance of being sedated or inattentive?
- Is there demonstrated ability to consistently nurture and supervise the child(ren) according to their developmental needs?
- Do co-occurring issues exist that would impact parenting or exacerbate risk, such as the following:
  - Social isolation
  - Poverty
  - Unstable housing
  - Domestic violence
- Are there supports, such as family and friends, who can care for the child(ren) when the parents are not able to? Are the parents willing to use their supports when necessary?
- Has the use of substances caused substantial impairment of judgment or irrationality to the extent that the child was abused or neglected?
- Are there any other factors that demonstrate an inability to protect the child(ren) and maintain child safety?

### **Responsibility for Development of the Plan of Safe Care**

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

In an investigation involving an infant born exposed to substances or having withdrawal symptoms, or fetal alcohol spectrum disorder, the caseworker must develop a safe care plan that addresses the following:

- The health and safety needs of the infant
- The substance use treatment needs of the mother
- The needs of other household members

### **Services for the Infant**

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

Regardless of case disposition, services must be provided to the infant and family by the department or another service provider, including, but not limited to, one of the following services:

- Early On
- Home visitation program

### **Services for the Parents or Other Caregivers**

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

Regardless of case disposition, services must be provided to the infant and family by the department or another service provider, including, but not limited to, one of the following services:

- Home visitation program
- Substance use disorder prevention, treatment, or recovery
- Family preservation

### **Monitoring Plans of Safe Care**

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

The referral and implementation of these services must be documented by the caseworker in both the social work contacts and the case disposition narrative in MiSACWIS.

## **MINNESOTA**

*Current Through August 2019*

### **Definitions**

**Citation: Ann. Stat. § 626.556, Subd. 2**

The term 'neglect' includes prenatal exposure to a controlled substance, as defined in § 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, 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.

### **Notification/Reporting Requirements**

**Citation: Ann. Stat. §§ 626.5561, Subd.1; 626.5562**

A mandated reporter shall immediately report to the local welfare agency when there is reason to believe that a pregnant woman has used a controlled substance for a nonmedical purpose, 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 by a written report. 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. The local welfare agency shall accept a report, notwithstanding refusal by a voluntary reporter to provide the reporter's name or address, as long as the report is otherwise sufficient.

A physician shall administer a toxicology test to a mother within 8 hours after delivery to determine whether there is evidence that she has ingested a controlled substance, if the woman has obstetrical complications that are

an indication of possible use of a controlled substance for a nonmedical purpose. A physician shall administer a toxicology test to each newborn infant born under the physician's care to determine whether there is evidence of prenatal exposure to a controlled substance, if the physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy. If the results of either test are positive, the physician shall report the results as neglect under § 626.556.

#### **Assessment of the Infant and Family**

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

Upon receipt of a report, the local welfare agency immediately shall conduct an appropriate assessment and offer services indicated under the circumstances.

#### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

#### **Services for the Parents or Other Caregivers**

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

The 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.

#### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **MISSISSIPPI**

*Current Through August 2019*

#### **Definitions**

**Citation: Ann. Code § 43-21-105**

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, which 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.

#### **Notification/Reporting Requirements**

**Citation: Ann. Code § 43-21-353**

A mandated reporter who has reasonable cause to suspect that a child is abused or neglected shall immediately make an oral report to the Department of Child Protection Services to be followed as soon as possible by a written report.



### **Assessment of the Infant and Family**

#### **Citation: Code of Rules 18-006-102, Part II**

All reports of positive drug screens for a mother and/or infant shall be screened-in by the centralized intake unit. All reports of positive drug screens for a mother and/or infant that have been screened in shall be assigned to a worker for investigation/assessment.

### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **MISSOURI**

*Current Through August 2019*

### **Definitions**

This issue is not addressed in the statutes and regulations reviewed.

### **Notification/Reporting Requirements**

#### **Citation: Ann. Stat. § 191.737**

*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 that documents the child as being at risk of abuse or neglect and either of the following apply:

- 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 (FASD), 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

Nothing in this section shall preclude a physician or other mandated reporter from reporting abuse or neglect of a child as required pursuant to the provisions of § 210.115.

### **Assessment of the Infant and Family**

**Citation:** CW Man. § 7, ch. 1, glossary

Newborn crisis assessment: In these cases, a home assessment is requested by a physician or health-care provider when the provider has serious reservations about releasing an infant from the hospital who may be sent home to a potentially dangerous situation. Many times, a drug-involved mother may continue using drugs, so an assessment of the home situation is needed prior to or at the time the infant is released from the hospital. There also may be other nondrug related situations in which a physician or health-care provider is concerned about releasing a newborn infant from the hospital. Nondrug-involved referrals will be accepted until the child is 1 year of age.

### **Responsibility for Development of the Plan of Safe Care**

**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 when 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 a physician or health-care provider authorizes such file to be closed.

### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **MONTANA**

*Current Through August 2019*

### **Definitions**

This issue is not addressed in the statutes and regulations reviewed.

Notification/reporting requirements

This issue is not addressed in the statutes and regulations reviewed.

### **Assessment of the Infant and Family**

This issue is not addressed in the statutes and regulations reviewed.

### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **NEBRASKA**

*Current Through August 2019*

### **Definitions**

**Citation: Pol. Man. Letter # 03-2016; Safety Assess. Man.**

The term 'exclusionary criteria' means criteria that, if alleged or otherwise learned by the Nebraska Department of Health and Human Services, automatically excludes a report accepted for assessment from eligibility for alternative response. Exclusionary criteria include the following:

- A newborn whose urine or meconium has tested positive for alcohol and whose caregiver (i) has an alcohol addiction; (ii) previously delivered a drug-exposed infant and did not successfully complete drug treatment; (iii) did not prepare for the newborn's birth; (iv) currently uses controlled substances or alcohol and breastfeeds or expresses intent to breastfeed; or (v) has no in-home support system or alternative primary care arrangements
- A pregnant woman who tested positive for methamphetamine or other controlled substance

The term 'drug-exposed infant' is used when there is evidence that the mother used alcohol or other drugs during pregnancy and this has created imminent danger to the infant, including the following:

- Indicators of drug use during pregnancy, including drugs found in the mother's or child's system, the mother's self-report, a diagnosed high-risk pregnancy due to drug use, efforts on mother's part to avoid toxicology testing, withdrawal symptoms in mother or child, or preterm labor due to drug use
- Indicators of imminent danger, including the level of toxicity and/or type of drug present; the infant being diagnosed as medically fragile as a result of drug exposure; or the infant suffering adverse effects from the introduction of drugs during pregnancy

### **Notification/Reporting Requirements**

This issue is not addressed in the statutes and regulations reviewed.

### **Assessment of the Infant and Family**

**Citation: DCFS Proc. Man. #5-2019**

A drug-exposed infant allegation requires that an infant has a positive urine or meconium test for alcohol or drugs. The birth parent's toxicology screen is only relevant if there is a positive test for methamphetamine and/or heroin.

If the child tests positive for any substance other than methamphetamine or heroin, the Division of Children and Family Services (CFS) specialist must consider the parent's situation and observations of bonding and interaction with the infant. The CFS specialist must accept the report if there is reason to believe that the parent will be unable to meet the child's basic needs (or arrange for those needs to be met) after leaving the hospital. Examples include, but are not limited to, the following:

- The parent has an addiction—defined as a persistent pattern of use over time that interferes with functioning (e.g., family, holding down job, involvement with law enforcement).

- There is a documented history of use, including a prior delivery of a drug-exposed newborn, without evidence of subsequent successful treatment.
- There is no evidence of preparation for the child's arrival (e.g., prenatal care; preparation of a sleeping area; purchasing diapers, formula, stroller, etc.).
- There is evidence of current use and stated intent to breast-feed or observation of current breast-feeding by hospital staff/reporters.
- There is no evidence of an in-home support system (e.g., another adult in the household who is able to provide care and protection for the child).

Indicators that the parent will be able to meet the child's needs include the following:

- Evidence that the parent has made appropriate arrangements for alternate care of her child (e.g., for another family member to assume primary care responsibilities for the child).
- The drug identified is one that remains in the system for a significant period after use and there are no indications that the parent is currently using (e.g., has completed treatment since becoming pregnant).

### **Responsibility for Development of the Plan of Safe Care**

**Citation: Pol. Man. Letter #53-2018**

If a report made by a hospital or other medical facility includes information that a newborn infant has been affected by substance use, withdrawal symptoms from prenatal drug exposure, or fetal alcohol spectrum disorder, the summary provided by the department may include any additional information the department deems necessary for the development of a plan of safe care for the child.

### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **NEVADA**

*Current Through August 2019*

### **Definitions**

**Citation: Rev. Stat. §§ 432B.0655; 432B.310; DCFS Pol. Man. § 0519**

'Fetal alcohol spectrum disorder' (FASD) means a continuum of birth defects caused by maternal consumption of alcohol during pregnancy. The term includes, without limitation, fetal alcohol syndrome.

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

*In policy:* CARA plan of care (CARA plan) refers to the plan of care that a State is required to develop by the Federal Comprehensive Addiction and Recovery Act (CARA) of 2016. This plan will address the safety, health, and substance use disorder treatment needs of the infant and affected family member or caregiver through the interdisciplinary coordination of services to enhance the overall well-being of the infant and family/caregiver.

The term 'neonatal abstinence syndrome' (NAS) is used to represent the pattern of effects that are associated with opioid withdrawal in newborns. NAS symptoms are affected by a variety of factors, including the type of opioid the infant was exposed to, the point of gestation when the mother used the opioid, genetic factors, and exposure to multiple substances.

The term 'substance-affected infants' (SAI) refers to a newborn infant that has been affected by prenatal substance abuse (licit or illicit) or has withdrawal symptoms resulting from prenatal drug exposure or FASD. SAI should be identified by a qualified medical professional and may be reported by hospital and/or medical personnel. Physical signs of infants affected by prenatal drug exposure may include, but are not limited to, crying and tremors, painful facial expression, small size for gestational age, and unusually thin arms and legs. Because substance-affected infants have a delayed response to the care they receive, a baby may continue to cry and/or tremble for a long time, even after he or she has been picked up and cared for, thus increasing the risk of child maltreatment.

The term 'substance use disorder' means a complex behavioral disorder characterized by preoccupation with obtaining alcohol or other drugs and by narrowing of the behavioral repertoire toward excessive consumption and loss of control over consumption. It is usually also accompanied by the development of tolerance and withdrawal and impairment in social and occupational functioning.

#### **Notification/Reporting Requirements**

**Citation: Rev. Stat. §§ 432B.220(3); 432B.230(2); 432B.310**

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 FASD, 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 a child welfare agency pursuant to this subsection shall not be construed to require prosecution for any illegal action.

The report 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 FASD 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 previously known or suspected effects of FASD, prenatal substance abuse, or evidence of withdrawal symptoms resulting from prenatal drug exposure of the newborn infant
- Any other information known to the person making the report that the child welfare agency considers necessary

An agency that provides child welfare services shall not report to the central registry any information concerning a child identified as being affected by FASD or prenatal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure, unless the agency determines that a person has abused or neglected the child after the child was born.

### **Assessment of the Infant and Family**

**Citation:** Rev. Stat. § 432B.260; DCFS Pol. Man. § 0519

Upon receipt of a report concerning the possible abuse or neglect of a child, an agency that provides child welfare services shall conduct an evaluation no later than 3 days after the report or notification was received to determine whether an investigation is warranted. For the purposes of this subsection, an investigation is not warranted if the alleged abuse or neglect of the child or the alleged effect of FASD, prenatal substance abuse, or withdrawal symptoms resulting from any prenatal drug exposure of the newborn infant could be eliminated if the child and the family of the child are referred to or participate in social or health services offered in the community, or both.

If the agency determines that an investigation is not warranted, the agency may, as appropriate, conduct an assessment of the family of the child or refer the family to a person who has entered into a written agreement with the agency to make such an assessment to determine what services, if any, are needed by the family and, if appropriate, provide any such services.

*In policy:* The hotline/intake screener should explore the following information to support information collection and screening decisions regarding substance-affected infants:

- The nature and extent of the effects of the prenatal alcohol and/or drug exposure on the newborn and the nature of the withdrawal symptoms (NAS), including the medical diagnosis and/or lab results
- The type of drug exposure
- The infant's medical condition and any current or ongoing health-care needs, including an extended hospital stay prior to discharge
- Special medical and/or physical problems in the newborn infant
- Medical monitoring and/or special equipment or medications needed by the newborn infant
- Prenatal care history
- Parent preparations for the care of the infant
- The nature and extent of the mother's current drug use
- The nature and extent of mother's compliance with medication-assisted treatment or substance treatment, including medication
- Parenting skills demonstrated in the health-care setting that suggest a lack of responsiveness to the newborn infant's needs (e.g., little or no response to infant's crying, poor eye contact, resistance to or difficulties in providing care)
- Limited or no family support
- Anticipated discharge date
- The CARA plan completed/requested

### **Responsibility for Development of the Plan of Safe Care**

**Citation:** Rev. Stat. § 432B.170; DCFS Pol. Man. § 0519

Nothing in the provisions of this chapter prohibits a child welfare from sharing information with other State or local agencies if the purpose for sharing the information is for the development of a CARA plan for the care, treatment, or supervision of an infant who is born and has been affected by FASD, prenatal substance abuse, or has withdrawal symptoms resulting from prenatal drug exposure. The other agency must have standards for confidentiality equivalent to those of the child welfare agency. Proper safeguards must be taken to ensure the confidentiality of the information.

*In policy:* A CARA plan, developed by health-care providers, should be in place before the infant is discharged from the care of the health-care provider. CARA plans are developed to ensure that infants identified as being prenatally affected by substances receive a coordinated response from public health and child welfare agencies to meet the service and treatment needs of the affected children and their families. The plan will address the safety, health, and substance use disorder treatment needs of the infant and affected family member or caregiver through the interdisciplinary coordination of services to enhance the overall well-being of the infant and family/caregiver.

Health-care providers who deliver or provide medical services to an infant in a medical facility and who, in his or her professional occupational capacity, knows or has reasonable cause to believe that the infant has been affected by FASD or prenatal substance abuse or is experiencing withdrawal symptoms resulting from in utero drug exposure shall ensure a CARA plan is in place prior to discharge. CARA plans shall be made available to child welfare agencies upon request.

### **Services for the Infant**

**Citation: DCFS Pol. Man. § 0519**

The CARA plan should address the needs of the child as well as those of the parent or caregiver to ensure that appropriate services are provided to the parent or caregiver and infant to ensure the infant's well-being. A CARA plan should include appropriate care for the infant who may be experiencing neurodevelopmental or physical effects or withdrawal symptoms from prenatal substance exposure, and services and supports that strengthen the parents' capacity to nurture and care for the infant and to ensure the infant's continued safety and well-being.

At a minimum the CARA plan should include referrals for the infant's health care and early intervention services. A referral to Nevada Early Intervention Services must be made for infants with a CARA plan. This is applicable to screened-in cases and is required to be completed by the assigned social worker or caseworker within 2 days of the receipt of the CARA plan.

### **Services for the Parents or Other Caregivers**

**Citation: DCFS Pol. Man. § 0519**

The CARA plan should address the needs of the child as well as those of the parent or caregiver to assure that appropriate services are provided to the parent/caregiver and infant to ensure the infant's well-being. There will be instances that a parent will decline to engage in a CARA plan; this in and of itself does not require the child welfare agency to screen-in the report for maltreatment.

A CARA plan is not the same as a safety plan but may be one critical component of the safety plan. A safety plan addresses immediate safety concerns, and the CARA plan addresses the affected caretaker's need for substance use and/or mental health treatment and the health and developmental needs of the affected infant. The CARA plan may provide pertinent information for safety planning.

A CARA plan should address the mother's (and potentially the other primary caregivers) need for treatment for substance use and mental disorders and services and supports that strengthen the parents' capacity to nurture and care for the infant and to ensure the infant's continued safety and well-being. At a minimum the CARA plan should include referrals for the mother's health, including postpartum care, substance abuse treatment, mental health, and parenting support.

## **Monitoring Plans of Safe Care**

**Citation:** Rev. Stat. § 432B.260(7); DCFS Pol. Man. § 0519

If an agency that provides child welfare services enters into an agreement with a person to provide services to a child or the family of the child, the agency shall require the person to notify the agency if the child or the family refuses or fails to participate in the services or if the person determines that there is a serious risk to the health or safety of the child.

*In policy:* Families with open child welfare cases will have the CARA plan incorporated into the family's case plan to address the infant's and caregiver's ongoing substance use treatment, medical, developmental, social, and emotional needs at the time the initial case plan is completed or within 30 calendar days of receipt when there is an existing case plan in place. The caseworker shall clearly identify and document the effect(s) of the substance abuse, withdrawal symptoms, and/or fetal alcohol spectrum disorder as well as the specific action steps necessary to assist maintaining children in their homes or, if appropriate, to promote family reunification. The infant and caregiver's needs and services should be documented in the case plan outcomes.

## **NEW HAMPSHIRE**

*Current Through August 2019*

### **Definitions**

This issue is not addressed in the statutes and regulations reviewed.

### **Notification/Reporting Requirements**

**Citation:** Rev. Stat. § 132:10-f

When a health-care provider suspects that an infant has been abused or neglected pursuant to § 169-C:3, the provider shall report to the Department of Health and Human Services in accordance with § 169-C:29. If the infant has a plan of safe care (POSC) developed under § 132:10-e, a copy of the plan shall accompany the report.

### **Assessment of the Infant and Family**

This issue is not addressed in the statutes and regulations reviewed.

### **Responsibility for Development of the Plan of Safe Care**

**Citation:** Rev. Stat. § 132:10-e

When an infant is born with and identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder, the health-care provider shall develop a POSC, in cooperation with the infant's parents or guardians and the Department of Health and Human Services, Division of Public Health Services, as appropriate, to ensure the safety and well-being of the infant, to address the health and substance use treatment needs of the infant and affected family members or caregivers, and to ensure that appropriate referrals are made and services are delivered to the infant and affected family members or caregivers.

The plan shall take into account whether the infant's prenatal drug exposure occurred as the result of medication-assisted treatment or medication prescribed for the mother by a health-care provider and whether the infant's mother is or will be actively engaged in ongoing substance use disorder treatment following discharge that would mitigate the future risk of harm to the infant. A copy of the POSC shall be included in the instructions for the infant upon discharge from the hospital or from the health-care provider involved in the development of the POSC. The POSC shall not be submitted to the department unless it is pursuant to § 132:10-f or the department makes an official request for a copy of the plan in compliance with confidentiality requirements.



### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **NEW JERSEY**

*Current Through August 2019*

### **Definitions**

**Citation: Admin. Code § 3A:26-1.2**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

- 'Division' means the Division of Child Protection and Permanency in the Department of Children and Families.
- '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 (FASD)

### **Notification/Reporting Requirements**

**Citation: Admin. Code §§ 3A:26-1.1; 3A:26-1.3**

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 § 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.

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

### **Assessment of the Infant and Family**

**Citation: DCF Pol. Man. # CPP-II-C-2-800; CPP-II-B-1-900**

The division caseworker shall initiate an investigation or child welfare assessment prior to the child's discharge from the hospital and develop an initial service plan that includes the caseworker's next contact with the parent(s). Prior to completing the investigation or child welfare assessment, the caseworker shall determine if substance use may be a presenting problem and pose a risk to the safety and well-being of the child. If so, the caseworker shall engage the mother in completing a substance use evaluation. The child's father or household members in a caregiving role suspected of substance use may pose a risk to the safety and well-being of the child, therefore the caseworker shall ensure that a substance use evaluation is completed for those persons.

Each referral of a newborn that alleges substance use disorder by the parent is assessed if there is reason to believe that either the child is at risk of being harmed or there are other circumstances that may warrant division involvement. A caseworker must complete an in-person assessment. The purpose of the assessment is to do the following:

- Assess harm or risk to the newborn, as follows:
  - Is the newborn infant exhibiting symptoms or signs of drug/alcohol exposure?
  - Has the newborn infant tested positive for drugs/alcohol?
- Determine the nature, history, and severity of the parent's substance use
- Determine the effects of the parent's substance use on the parent's functioning and ability to parent and provide protection and care to the child
- Determine other supports available, including persons willing and able to care for the infant
- Assess the necessity for services and determine what actions must be taken by the parent, the division, or others to ensure that the newborn infant receives appropriate care

### **Responsibility for Development of the Plan of Safe Care**

**Citation: DCF Pol. Man. # CPP-II-C-2-800; CPP-II-B-1-900**

The division caseworker shall complete a multidisciplinary case conference prior to concluding the investigation or child welfare assessment. The multidisciplinary case conference shall strengthen families through engagement and teaming with early childhood and family support partners by decreasing risk factors and increasing protective factors.

All substance-affected newborns referred shall have a plan of safe care (POSC) developed by the caseworker with the family. The POSC shall ensure the following:

- The parent(s) or resource parent(s), if applicable, understand safe sleep, car seat safety, how to respond when a baby cries, and safe storage of medications.
- The newborn, parent(s), and resource parent(s), if applicable, are referred for services and supports that reduce risk factors and increase protective factors.

### **Services for the Infant**

**Citation: DCF Pol. Man. # CPP-II-C-2-800**

A family agreement shall include the services the infant is referred to and the supports that reduce the risk factors and increase protective factors. Examples of these services include early intervention services, Help Me Grow NJ, health care, home visiting, and child care.

### **Services for the Parents or Other Caregivers**

**Citation: DCF Pol. Man. # CPP-II-C-2-800**

A family agreement shall include the services the parent(s) are referred and the supports that reduce the risk factors and increase protective factors. Examples of these services include substance use treatment, social services, housing, health care, home visiting, child care, parenting support and education, family success centers, Parents Anonymous, and others identified by the parent(s) and the team. The POSC also documents the resources, services, and supports needed to ensure the safety, permanency, and well-being of the child, family, and resource parent(s), if applicable.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **NEW MEXICO**

*Current Through August 2019*

### **Definitions**

**Citation: Stat. Ann. § 32A-1-4**

The term 'plan of care' means a plan created by a health-care professional intended to ensure the safety and well-being of a substance-exposed newborn by addressing the treatment needs of the child and any of the child's parents, relatives, guardians, family members, or caregivers to the extent those treatment needs are relevant to the safety of the child.

### **Notification/Reporting Requirements**

**Citation: Ann. Stat. § 32A-3A-13**

Reports made pursuant to this section shall be collected by the Children, Youth and Families Department (the department) as distinct and separate from any child abuse report as captured and held or investigated by the department, such that the reporting of a plan of care shall not constitute a report of suspected child abuse and neglect and shall not initiate an investigation by the department or a report to law enforcement.

Reports made pursuant to the requirements in this section shall not be construed to relieve a person of the requirement to report to the department knowledge of or a reasonable suspicion that a child is an abused or neglected child based on criteria as defined by § 32A-4-2.

### **Assessment of the Infant and Family**

**Citation: Ann. Stat. § 32A-3A-13**

The rules developed by the department shall include guidelines to hospitals, birthing centers, medical providers, Medicaid managed care organizations, and private insurers regarding definitions and evidence-based screening tools, based on standards of professional practice, to be used by health-care providers to identify a

child born affected by substance use, withdrawal symptoms resulting from prenatal drug exposure, or a fetal alcohol spectrum disorder (FASD).

### **Responsibility for Development of the Plan of Safe Care**

**Citation: Ann. Stat. § 32A-3A-13**

By January 1, 2020, the department, in consultation with Medicaid managed care organizations, private insurers, the Office of Superintendent of Insurance, the Human Services Department, and the Department of Health, shall develop rules to guide hospitals, birthing centers, medical providers, Medicaid managed care organizations, and private insurers in the care of newborns who exhibit physical, neurological, or behavioral symptoms consistent with prenatal drug exposure, withdrawal symptoms from prenatal drug exposure, or FASD.

The rules shall include guidelines to hospitals, birthing centers, medical providers, Medicaid managed care organizations, and private insurers regarding participation in the discharge planning process, including the creation of a written plan of care that shall be sent to the following:

- The child's primary care physician
- A Medicaid managed care organization insurance plan care coordinator who will monitor the implementation of the plan of care after discharge, if the child is insured, or to a care coordinator in the Children's Medical Services of the Family Health Bureau of the Public Health Division of the Department of Health who will monitor the implementation of the plan of care after discharge, if the child is uninsured
- The child's parent, relative, guardian, or caregiver who is present at discharge who shall receive a copy upon discharge

The plan of care shall be signed by an appropriate representative of the discharging hospital and the child's parent, relative, guardian, or caregiver who is present at discharge.

### **Services for the Infant**

**Citation: Ann. Stat. § 32A-3A-13**

The rules also may provide for the engagement of the child's relatives, parents, guardians, or caregivers in order to identify the need for access to treatment for any substance use disorder or other physical or behavioral health condition that may impact the safety, early childhood development, and well-being of the child.

### **Services for the Parents or Other Caregivers**

**Citation: Ann. Stat. § 32A-3A-13**

The rules shall include guidelines to hospitals, birthing centers, medical providers, Medicaid managed care organizations, and private insurers regarding identification of appropriate agencies to be included as supports and services in the plan of care, based on an assessment of the needs of the child and the child's relatives, parents, guardians, or caregivers, performed by a discharge planner prior to the child's discharge from the hospital or birthing center. Agencies that may provide services may include the following:

- Public health agencies
- Maternal and child health agencies
- Home visitation programs
- Substance use disorder prevention and treatment providers
- Mental health providers
- Public and private children and youth agencies
- Early intervention and developmental services

- Courts
- Local education agencies
- Managed care organizations
- Hospitals and medical providers

### **Monitoring Plans of Safe Care**

**Citation: Ann. Stat. § 32A-3A-13**

The rules shall include guidelines to hospitals, birthing centers, medical providers, Medicaid managed care organizations, and private insurers regarding the collection and reporting of data to meet Federal and State reporting requirements, including the following:

- Data provided by hospitals and birthing centers to the department when a plan of care has been developed and a family has been referred for a plan of care
- Information pertaining to a child born and diagnosed by a health-care professional as affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure, or FASD
- Data collected by hospitals and birthing centers for use by the Children's Medical Services of the Family Health Bureau of the Public Health Division of the Department of Health in epidemiological reports and to support and monitor a plan of care

Information reported pursuant to this subparagraph shall be coordinated with the insurance carrier care coordinators to facilitate access to services for children and parents, relatives, guardians, or caregivers identified in a plan of care.

The department shall summarize and report data received at intervals as needed to meet Federal regulations.

## **NEW YORK**

*Current Through August 2019*

### **Definitions**

**Citation: CPS Pol. Man. Ch. 6, § J(2); Pol. Memo. # 17-OCFS-LCM-03**

The definition of 'neglected child' includes failing to provide a minimum degree of care by misusing a drug or drugs, or misusing alcoholic beverages to the extent that the person loses self-control of his or her actions, 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.

To date, there is no Federal definition of a plan of safe care (POSC); however, for the purposes of this policy, a POSC must address the health and substance use disorder treatment needs of the infant and the affected family or caregiver. The POSC must address not only the immediate safety needs of the affected infant, but also the health and substance use disorder needs of the affected family or caregiver. A POSC also should include referrals to appropriate services that support the affected infant and family or caregivers. The POSC should be developed with the input from the parents and caregivers as well as from other professionals and agencies involved in serving the affected infant and family.

## **Notification/Reporting Requirements**

**Citation: CPS Pol. Man. Ch. 6, § J(2)**

Health-care providers are mandated reporters. If involved in the delivery or care of an infant who is affected by substance use disorder, exhibits withdrawal symptoms resulting from prenatal substance exposure, or is diagnosed with fetal alcohol spectrum disorder (FASD), the health-care provider must report to the Statewide Central Register of Child Abuse and Maltreatment (SCR) if there is reasonable cause to suspect that the infant has been abused or maltreated. Most reports citing positive toxicology of an infant are made in this manner.

Child protective services (CPS) will address the report with an investigation or, where permitted, CPS may address it with a family assessment response.

The SCR should not register a report based on an infant's positive toxicology if the infant's mother is compliant with a drug treatment program and is demonstrating an ability to care for the infant. Also, in screening reports of the positive toxicology of an infant, the SCR does not differentiate whether a substance is legal or illegal.

If a report is registered, a parent or person legally responsible should not be indicated simply for participating in a substance abuse treatment program. To indicate the parent of a child—including a newborn with a positive toxicology test—because of the parent's drug use or abuse, CPS must find that the child's physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired. Evidence that a newborn infant tested positive for a drug or alcohol in its bloodstream or urine; or is born dependent on drugs, with drug withdrawal symptoms, or FASD; or has been diagnosed as having a condition that may be attributable to in utero exposure to drugs or alcohol is not sufficient, in and of itself, to support a determination that the child is abused or maltreated. In addition, such evidence alone is not sufficient for a local department of social services (LDSS) to take protective custody of such a child.

## **Assessment of the Infant and Family**

**Citation: CPS Pol. Man. Ch. 6, § J(2)**

After receiving a report in which parental drug or alcohol misuse is alleged, CPS must determine whether there was such misuse and, if so, whether the child's physical, mental, or emotional condition was impaired or is at imminent risk. To determine whether the parent's drug or alcohol use creates a condition that places the child's physical, mental, or emotional condition in imminent danger of becoming impaired, CPS must assess the ability of the parent to care for the child, examining the parent's plans for the care of the child and his or her ability to follow through with those plans. In the case of a newborn infant born to a parent who abuses drugs or alcohol, any special needs of that infant should be considered in CPS's assessment of parental capability.

## **Responsibility for Development of the Plan of Safe Care**

**Citation: CPS Pol. Man. Ch. 6, § J(2); Pol. Memo. # 17-OCFS-LCM-03**

The abuse of drugs or alcohol by parents of children, including newborn infants who present with a positive toxicology after birth, is one of the more difficult situations confronting CPS. The benefits of maintaining the parent-child bond must be weighed against the parent's ability to provide adequate care for the infant.

Whenever an infant is identified as being exposed to substances, the State must provide for the development of a POSC that addresses the health and substance use disorder treatment needs of both the infant and the affected family or caregiver. The POSC must address not only the immediate safety needs of the affected infant, but also the health and substance use disorder needs of the affected family or caregiver. A POSC should include referrals to appropriate services that support the affected infant and family or caregivers.

The POSC should be developed with input from parents and caregivers as well as from professionals and

agencies involved in serving the affected infant and family. It may be written by a physician, other medical provider, CPS, social worker, or another entity.

Whenever a report of suspected abuse or maltreatment involves an infant exposed to substances, CPS must document the POSC in its case records. In some instances, a POSC may have been developed by medical professionals and/or substance abuse treatment providers prior to the involvement of CPS. The case file should clearly document the POSC, whether developed by CPS or other professionals involved.

Consistent with good casework practice, CPS workers must develop a POSC with input from the parents and caregivers as well as from other professionals and agencies involved in caring for the infant and family. When possible, communication about a POSC should begin prior to an infant's discharge from the hospital.

The case progress notes must include the details of the POSC and identify any other professionals who were involved in the development of the plan and what appropriate service referrals were made by either CPS or the other professionals involved with the family.

### **Services for the Infant**

**Citation: CPS Pol. Man. Ch. 6, § J(2); Pol. Memo. # 17-OCFS-LCM-03**

CPS must offer and/or make referrals for appropriate services in cases in which an infant has a positive toxicology screening. Such services can be especially important in preventing the separation of mother and child. Referrals and services may include, but are not limited to, home visiting, and early intervention screening, and services. Depending on the determination of the report, the services offered could be either mandated or optional preventive services, offered directly by the LDSS and/or through a purchase of service agreement designed to prevent out-of-home placements.

Preventive services include supportive and rehabilitative services that are provided to children and families in accordance to New York State regulations and Social Services Law. Mandated and optional preventive services offered directly by the LDSS and/or through a purchase of service agreement are designed to prevent out-of-home placements. Supportive and rehabilitative services for children and adults include, but are not limited to, the following:

- Child daycare services
- Clinical services
- Day services to children
- Intensive, home-based, family preservation services
- Outreach activities
- Respite care

### **Services for the Parents or Other Caregivers**

**Citation: CPS Pol. Man. Ch. 6, § J(2); Pol. Memo. # 17-OCFS-LCM-03**

CPS must offer and/or make referrals for appropriate services in cases in which an infant has a positive toxicology screening. Such services can be especially important in preventing the separation of mother and child. Referrals and services may include, but are not limited to, substance use disorder treatment services (both outpatient and inpatient), home visiting, and early intervention screening, and services. Depending on the determination of the report, the services offered could be either mandated or optional preventive services, offered directly by the LDSS and/or through a purchase of service agreement designed to prevent out-of-home placements.

Preventive services include supportive and rehabilitative services that are provided to children and families in accordance to New York State regulations and Social Services Law. Mandated and optional preventive services offered directly by the LDSS and/or through a purchase of service agreement are designed to prevent out-of-home placements. Supportive and rehabilitative services for children and adults include, but are not limited to, the following:

- Case management
- Case planning
- Child daycare services
- Homemaker services
- Housekeeper/chore services
- Family planning services
- Home management services
- Clinical services
- Parent aide services
- Day services to children
- Parent training
- Transportation services
- Emergency cash or goods
- Emergency shelter
- Preventive housing services
- Intensive, home-based, family preservation services
- Outreach activities
- Respite care

### **Monitoring Plans of Safe Care**

**Citation: Pol. Memo. # 17-OCFS-LCM-03**

The Offices of Child and Family Services (OCFS) will continue to access information on infants with the following designated safety factors:

- The child has a positive toxicology for legal or illegal drugs and/or alcohol.
- The caregiver(s) currently abuses alcohol, to the extent that it seriously affects his or her ability to supervise, protect, or care for the child(ren).
- The caregiver(s) currently abuses legal or illegal drugs, to the extent that it seriously affects his or her ability to supervise, protect, or care for the child(ren).

OCFS also will monitor case documentation on the development and implementation of the POSCs through the review of child protective services cases using the ongoing monitoring assessment process.

## **NORTH CAROLINA**

*Current Through August 2019*

### **Definitions**

**Citation: CPS Assessments Policy, Protocol, and Guidance**

A 'substance-affected infant' is an infant that meets one of the following definitions:

- Affected by substance abuse: The infant has a positive urine, meconium, or cord segment drug screen with confirmatory testing in the context of other clinical concerns as identified by current evaluation and management standards.



- The infant's mother has had a medical evaluation, including history and physical or behavioral health assessment indicative of an active substance use disorder, during the pregnancy or at time of birth.
- Affected by withdrawal symptoms: The infant manifests clinically relevant drug or alcohol withdrawal.
- Affected by fetal alcohol spectrum disorder (FASD): The infant is diagnosed with one of the following:
  - Fetal alcohol syndrome (FAS)
  - Partial FAS (PFAS)
  - Neurobehavioral disorder associated with prenatal alcohol exposure (NDPAE)
  - Alcohol-related birth defects (ARBD)
  - Alcohol-related neurodevelopmental disorder (ARND)
- The infant has known prenatal alcohol exposure when there are clinical concerns for the infant per current evaluation and management standards.

### **Notification/Reporting Requirements**

#### **Citation: CPS Assessments Policy, Protocol, and Guidance**

The Child Abuse Prevention and Treatment Act (CAPTA) and the Comprehensive Addiction and Recovery Act of 2016 require States to have policies and procedures in place to do the following:

- Require health-care providers involved in the delivery and care of infants born with and identified as being affected by substance abuse (not just abuse of illegal substances as was the requirement prior to this change), withdrawal symptoms resulting from prenatal substance exposure, or to notify child protective services (CPS) of the occurrence
- Ensure the safety and well-being of such infants following their release from the care of health-care providers by developing a plan of safe care (POSC) that addresses the health and substance use disorder treatment needs of both the infant and affected family or caregiver

As specified in CAPTA, the notification is to ensure that services are provided to the infant and caregiver, but it does not establish a definition under Federal law of what constitutes child abuse or neglect. Furthermore, the requirement for notification should not be construed to mean that prenatal substance use is intrinsically considered child maltreatment. Therefore, while the notification is required, not every report about a substance-affected infant will result in a CPS assessment.

### **Assessment of the Infant and Family**

#### **Citation: CPS Assessments Policy, Protocol, and Guidance**

During the screening process, a child welfare agency may share confidential information with public and private agencies that are providing or facilitating protective services. In order to comply with confidentiality laws and to ensure that a POSC can be created for every infant, it is important that a referral be made to the Care Coordination for Children (CC4C) agency during the screening of the report and prior to making a determination to screen in or screen out the report. The timing of the referral is critical because confidentiality laws will prohibit a child welfare agency from making the referral to CC4C if the report has already been screened out and child protective services are no longer being provided.

A report that only alleges that an infant was exposed to substances prior to birth does not intrinsically meet the statutory definition of child abuse, neglect, or dependency. To determine whether a report about a substance-affected infant should be accepted, the child welfare agency must examine the effect that the substance exposure has had on the infant and the infant's health and safety. Only reports that meet the statutory definition of child abuse, neglect, or dependency can be accepted.

The county welfare child agency must refer to the Substance-Affected Infant Screening Tool to screen for allegations of child maltreatment. Reports of child maltreatment of substance-affected infants must be accepted and a CPS assessment initiated when the information gathered is consistent with any of the following:

- The infant has received one of the following diagnoses: FAS, PFAS, NDPAE, ARBD, or ARND.
- The infant had a positive drug toxicology or is experiencing withdrawal symptoms. However, if it is known that the drug is a medication prescribed to the mother and is being used appropriately, then the report should not be accepted on that basis alone. This includes medications prescribed for the treatment of opioid use disorders.
- The mother had a positive drug toxicology at the time of infant's birth and she is demonstrating behaviors that impact her ability to provide care to the infant.
- The mother had a medical evaluation or behavioral health assessment that is indicative of an active substance use disorder at the time of the infant's birth and she is demonstrating behaviors that impact her ability to provide care to the infant.
- The mother had a positive drug toxicology at the time of the infant's birth and a review of county child welfare agency history revealed a pattern of substantiations or findings of services needed or a particularly egregious finding that correlates with the allegations.
- The mother had a medical evaluation or behavioral health assessment that is indicative of an active substance use disorder at the time of the infant's birth, and a review of county child welfare agency history revealed a pattern of substantiations or findings of services needed or a particularly egregious finding that correlates with the allegations.

A mother's prescribed and appropriate use of medications should not be coupled with county child welfare agency history to justify the acceptance of a report.

### **Responsibility for Development of the Plan of Safe Care**

#### **Citation: CPS Assessments Policy, Protocol, and Guidance**

CAPTA requires that every infant 'born with and identified as being affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure, or FASD' has a plan ensuring his/her safety following the release from the care of health-care providers. A POSC is required for all substance-affected infants regardless of whether the circumstances constitute child maltreatment. Therefore, a county child welfare agency must develop a POSC for each infant that is the subject of a substance-affected infant report. To develop the POSC, the county child welfare agency must complete a CC4C referral form that includes a POSC. It must submit the referral to the local CC4C program.

The components of the POSC should reflect and address the needs of both the infant and the affected family or caregiver through the services available with CC4C. CC4C will work with the family on a voluntary basis to implement the POSC.

### **Services for the Infant**

#### **Citation: CPS Assessments Policy, Protocol, and Guidance**

Due to the increased risk associated with sleep-related infant death for substance-affected infants, the child welfare worker must encourage the family to arrange for safe and separate sleeping arrangements for the infant. This must be documented in the case record.

Part C of the Individuals with Disabilities Education Act requires that a child under age 3 who is identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure be referred for early intervention services. In North Carolina, children who are identified as substance-affected infants must be screened for referral to the North Carolina Infant Toddler Program through the local Children's Developmental Services Agency for early intervention services.

## **Services for the Parents or Other Caregivers**

### **Citation: CPS Assessments Policy, Protocol, and Guidance**

While the safety agreement and POSC are not intended to be duplicative interventions, they will likely address many of the same processes and issues. The major difference, however, is that the POSC should go beyond immediate safety factors to address the affected caregiver's need for substance use and/or mental health treatment and the health and developmental needs of the affected infant. Additionally, it should identify the services and supports the caregiver needs to strengthen his or her capacity to nurture and care for the infant. CC4C will implement the POSC with the family on a voluntary basis. However, that does not negate the role the child welfare worker has in supporting the family, while also assessing risk and safety.

All components of the POSC may not have been met at the time of case decision; however, the child welfare worker should have assisted the family in addressing the identified needs, with emphasis on those connected to the infant's safety and well-being. Should the case require CPS in-home services or child placement services, family service agreements must reflect components of the POSC if they remain relevant to child safety and well-being.

## **Monitoring Plans of Safe Care**

### **Citation: CPS Assessments Policy, Protocol, and Guidance**

The amended provisions of CAPTA also require that States report additional information through National Child Abuse and Neglect Data System (NCANDS) and that States develop monitoring systems to ensure that appropriate referrals and services are being provided through the implementation of POSCs.

The following must be reported to NCANDS:

- The number of infants identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure or FASD
- The number of such infants for whom a POSC was developed
- The number of such infants for whom a referral was made for appropriate services, including services for the affected family or caregiver

County child welfare agencies must collect the following data:

- The number of substance-affected infants for which the agency received notification from a health-care provider
- The number of infants and families for whom the agency developed a POSC
- The number of infants the agency referred to the CC4C for appropriate services
- The number of those infants who were accepted for CPS assessment
- The number of those infants who were not accepted for CPS assessment

The North Carolina Division of Social Services will collect this data monthly. An interagency collaborative will meet quarterly to review the data collected by DSS and CC4C, determine gaps and needs, develop a plan of intervention, and provide technical assistance at the local level.

## NORTH DAKOTA

*Current Through August 2019*

### Definitions

**Citation: Cent. Code § 50-25.1-02(4), (14), (15), (18)**

'Alternative response assessment' means a child protection response involving substance-exposed newborns that is designed to do the following:

- Provide referral services to and monitor support services for a person responsible for the child's welfare and the substance exposed newborn
- Develop a plan of safe care (POSC) for the substance-exposed newborn

'Prenatal exposure to a controlled substance' means use of a controlled substance, as defined in chapter 19-03.1, by a pregnant woman for a nonmedical purpose during pregnancy, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery of the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance.

'Substance exposed newborn' means an infant younger than 28 days of age at the time of the initial report of child abuse or neglect and who is identified as being affected by substance abuse or withdrawal symptoms or by a fetal alcohol spectrum disorder (FASD).

*Effective January 1, 2020:* 'Neglected child' means a child who, due to the action or inaction of a person responsible for the child's welfare, was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance, as defined in chapter 19-03.1, in a manner not lawfully prescribed by a practitioner.

### Notification/Reporting Requirements

**Citation: Cent. Code §§ 50-25.1-16; 50-25.1-17; 50-25.1-18**

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 their official or professional capacity. Any individual may make a voluntary report if they have 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 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 the pregnant 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 under § 50-25.1-03.1. A negative test result or the pregnant woman's refusal to consent to a test 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 a physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy, the physician shall administer to the newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance without the consent of the child's parents or guardian. 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.

A mandatory reporter who has knowledge of or reasonable cause to suspect that a woman is pregnant and has abused alcohol after the woman knows of the pregnancy may do either of the following:

- Arrange for an addiction assessment conducted by a licensed treatment program and confirm that the recommendations indicated by the assessment are followed
- Immediately report the circumstances to the department if the knowledge or suspicion is derived from information received by that individual in that individual's official or professional capacity

If the woman is referred for an addiction assessment and fails to obtain an assessment or refuses to comply with the recommendations of the assessment, a mandatory reporter who has knowledge of the failure to obtain the assessment or refusal to comply with recommendations of the assessment shall make a report to the department.

If a report alleges a pregnant woman has abused alcohol, the department shall immediately initiate an appropriate assessment and offer services indicated under the circumstances. Services offered may include a referral for addiction assessment, a referral for substance use disorder treatment, if recommended, or a referral for prenatal care. The department also may take any appropriate action under chapter 25-03.1.

### **Assessment of the Infant and Family**

**Citation: Cent. Code §§ 50-25.1-16; 50-25.1-18; CPS Pol. Man. § 640-37**

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, the nature and extent of the abuse of alcohol, any health risk associated with the abuse of alcohol, and the name and address of the individual making the report.

*In policy:* Alternative response is the preferred response to reports of substance-exposed newborns and should be offered whenever the following are present:

- There has been a previous pregnant-woman assessment, and the mother engaged in service planning and development of a plan of safe care (POSC) for the infant.
- The initial report concerns an infant within the first 28 days of life.
- The concerns reported involve only prenatal exposure to abuse of alcohol or use of a controlled substance, and there are no other children involved where there are concerns of abuse or neglect.
- The initial report indicates that this is the first birth to this mother.
- There is no previous CPS history concerning the mother or other caregivers, or there is a history of previous CPS reports involving the mother or other caregivers that were administratively assessed, terminated in progress, or determined no services required.
- There was a previous services-required determination for neglect, and the parent followed through with required services, working successfully with the case manager.
- The newborn, or other siblings or household members, are not currently in the care and custody of a county or the department.

- The parent has no intellectual limitations that may impair the parent's ability to nurture or physically care for the child.
- The parent has no major psychiatric illness not currently controlled with medication.
- There is no current or recent (within 6 months) history of domestic violence in the home with the current partner.

Alternative response shall not be used when the following are true:

- The initial report contains abuse or neglect concerns for the newborn or other children in the home, in addition to substance exposure.
- The newborn affected by substance exposure is over 28 days old.
- There is a current open assessment involving abuse or neglect concerns, other than prenatal substance exposure.
- There is a history of previous CPS assessments with a services-required determination related to physical abuse, sexual abuse, or medical neglect or a recent assessment with a services-required determination (within 6 months).
- There is a history of failure to thrive, death of a child from abuse or neglect, or undetermined injury or death of an infant.
- The newborn, other siblings, or household members are currently in the care and custody of a county or the department.
- The parents or caregivers refuse.

#### **Responsibility for Development of the Plan of Safe Care**

**Citation: Cent. Code § 50-25.1-21; CPS Pol. Man. § 640-37**

In response to an alternative response assessment, the department shall do the following:

- Provide referral services to, and monitor support services for, the person responsible for the child's welfare, the substance-exposed newborn, and other children under the same care as may be necessary for their well-being
- Develop a POSC for the substance-exposed newborn

*In policy:* A POSC is an action plan to address the health and safety needs of the substance-exposed newborn and the health and substance use disorder treatment needs of the infant's caregivers. A POSC is intended to provide knowledge, services, and supports to sustain safety and health that begins during the CPS assessment and continues after the CPS intervention ends.

A POSC may be approached through the use of a family team, multidisciplinary team, family team decision-making, through individual contacts, or a combination of these. Use of a team approach that includes service providers and other informal supports is encouraged but not required. The primary purpose of a multidisciplinary approach to review reported cases of substance exposed newborns is to provide:

- Assistance in the determining appropriate and available community resources
- Advice and consultation regarding a case, based on individual members' expertise
- A forum that can be used to gauge community values and standards for the purpose of assessing risk of abuse or neglect
- Community advocacy on behalf of children and the children's families for the following purposes:
  - To assist in assessing the needs, strengths, and problems of a child, family, other caregivers
  - To assist in identifying services that can assist in the alleviation of identified needs
  - To assist in determining which available resources within the community can be utilized
  - To serve as a resource to community and professional organizations or groups

The fundamental value of the team process lies in the fact that information is evaluated by professionals of different perspectives. Collaboration is beneficial in enhancing the safety and well-being of children and families.

### **Services for the Infant**

**Citation: CPS Pol. Man. § 640-37**

The POSC must include, but is not limited to, services and supports for the newborn, including the following:

- Any needed medical care
- Safe housing that protects the infant from environmental exposure to substances and persons under the influence of substances
- A general day-to-day plan for caring for the infant, including the caregiver's understanding of the special care needs of the infant and the ability to provide such care
- Referral to Part C Infant Development services

### **Services for the Parents or Other Caregivers**

**Citation: CPS Pol. Man. § 640-37**

The POSC must include, but is not limited to, services and supports for the caregivers, including the following:

- Referral to necessary substance use disorder treatment services
- A list of phone numbers and contacts to call as a resource during a time of relapse and/or crisis or for general help with parenting issues
- Referral/follow up to any needed physical health services
- Inclusion of safe care for the infant in any relapse plan developed for the parent
- Provision of shaken baby syndrome prevention materials
- Provision of infant safe sleep information and ensuring safe sleep arrangements in the home

Other types of assistance that may be provided include parenting classes; safe drug-free housing; financial assistance; infant care needs, including clothing, supplies, formula, etc.; legal needs; transportation; and basic needs, including food and clothing, etc.

### **Monitoring Plans of Safe Care**

**Citation: Cent. Code § 50-25.1-20; CPS Pol. Man. § 640-37**

If an alternative response assessment is initiated as a result of a report of child abuse or neglect, a decision that services are required may not be made if the person responsible for the child's welfare complies with the resulting referred services and POSC for the substance-exposed newborn. The department shall determine whether a person responsible for the child's welfare has complied with the referred services and POSC for the substance-exposed newborn. If the department determines a person responsible for the child's welfare has not complied with the referred services and POSC for the substance-exposed newborn, an assessment of the initial report of child abuse or neglect may be completed.

*In policy:* As required by the Child Abuse Prevention and Treatment Act (CAPTA), when a newborn has been identified as a substance-exposed newborn, CPS workers must monitor the POSC. The worker must ensure implementation of the POSC by following up with service providers and collateral contacts, including the family and other parties involved in the plan.

The POSC shall be monitored through a minimum of the following actions:

- Following hospital discharge, weekly contacts (with face-to-face contact every other week) must be made by CPS workers with the parents/caregivers and the infant.
- Any other children in the home must be assessed for safety throughout the assessment.

- The worker must make at least one face-to-face, or via electronic means, visit with each participant who agrees to act as a resource for emergency care of the infant in the POSC.
- The worker must contact (via email, text, etc.) each participant who is an informal support at least every other week.
- Contacts with service providers or follow-up contacts with safety support persons and other informal supports can be made by phone, email, in writing, text message, etc. to verify follow through with the plan.
- The worker must complete mandatory contacts with service providers before the case is closed.

All assessments with a POSC must include monitoring documentation. POSCs must be monitored for a minimum of 30 days prior to closing the assessment.

## **NORTHERN MARIANA ISLANDS**

*Current Through August 2019*

### **Definitions**

This issue is not addressed in the statutes reviewed.

### **Notification/Reporting Requirements**

This issue is not addressed in the statutes reviewed.

### **Assessment of the Infant and Family**

This issue is not addressed in the statutes reviewed.

### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes reviewed.

### **Services for the Infant**

This issue is not addressed in the statutes reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes reviewed.

## **OHIO**

*Current Through August 2019*

### **Definitions**

**Citation: Admin. Code § 5101:2-1-01**

The 'Help Me Grow' early intervention services means developmental services selected in collaboration with the parents of a child, birth through age 2, who is eligible for services under part C of the Individuals with Disabilities Education Act, and is designed to meet the developmental needs of the child and the needs of the child's family to assist appropriately in the child's development, as identified in the individualized family service plan.



'Plan of safe care' (POSC) means an arrangement that addresses the immediate safety of the substance-exposed and/or substance-affected infant, the treatment needs of the infant, and the health and substance use disorder treatment needs of the affected family or caregiver. The plan is developed with the parents or other caregivers as well as the collaborating professional partners and agencies involved in caring for the infant and family. The plan includes, but is not limited to, the following:

- Basic identifying information of the infant and caregiver(s): name, date of birth, and address
- The hospital or medical facility where the infant is being treated: name, address, contact person, and physician
- Medical information on the infant: treating medical personnel (doctor, specialists), current diagnosis, prescription medication, therapies, or treatment
- Health and substance use of mother, father, and/or caregiver: diagnosis, prescribed medications, alcohol or drug treatment provider(s), treatment plan, and contact information of all

'Substance-affected infant' means a child under age 12 months who has any detectable physical, developmental, cognitive, or emotional delay or harm that is associated with a parent, guardian, or custodian's abuse of a legal or illegal substance, excluding the use of a substance by the parent, guardian, or custodian as prescribed.

'Substance-exposed infant' means a child under age 12 months who has been subjected to legal or illegal substance abuse while in utero.

#### **Notification/Reporting Requirements**

**Citation: Rev. Stat. § 2151.421**

A mandated reporter who knows or has reasonable cause to suspect that a child has suffered or faces a threat of suffering abuse or neglect shall immediately make a report to the county public children services agency (PCSA) or a peace officer in the county in which the child resides or the abuse or neglect is occurring or has occurred.

#### **Assessment of the Infant and Family**

**Citation: Admin. Code § 101:2-36-01(G), (H)**

When a PCSA receives referral information on an infant identified as affected by legal or illegal substance abuse, withdrawal symptoms resulting from prenatal or postnatal substance exposure, or a fetal alcohol spectrum disorder (FASD), the PCSA shall attempt to gather the following regarding the plan of safe care:

- The name(s) and address(es) of the child; the parent, guardian(s), or custodian(s); and all household members
- The identity of the caregiver(s) for the infant
- A description of the interaction between the mother or caregiver and infant
- The name of the hospital or medical facility where the infant is receiving care
- Any known medical information on the parent(s), guardian(s), caregiver(s), infant, or household members
- Information regarding any known legal or illegal substance abuse, including the history of legal or illegal substance abuse by parent(s), guardian(s), caregiver(s), and household members
- Information regarding support systems for the parent(s), guardian(s), caregiver(s), or household members
- Information on the managed care plan and insurance information

The PCSA shall not screen out a referral if any of the following apply:

- The POSC information listed above is not obtained.
- The POSC has not been developed.
- The POSC is not adequate to address the safety of the infant.

## **Responsibility for Development of the Plan of Safe Care**

**Citation: Admin. Code § 5101:2-36-03**

For all reports involving an infant identified as affected by legal or illegal substance abuse or withdrawal symptoms resulting from prenatal or postnatal substance exposure, the PCSA shall do the following:

- Ensure the POSC has been developed
- Ensure the POSC addresses the safety needs of the infant
- Ensure the POSC addresses the health and substance use disorder treatment needs of the affected family or caregiver

Within 2 working days of completion of the assessment/investigation, the PCSA shall do all the following, as applicable:

- Refer any infant who has been born and identified as affected by legal or illegal substance abuse, withdrawal symptoms resulting from prenatal drug exposure, or FASD to 'Help Me Grow.'
- Notify all participants involved in the POSC of the final case decision

The final decision includes whether the case will be transferred for ongoing PCSA services, closed and referral made to community services, or closed. The following POSC participants shall be notified:

- Parents, guardians, custodians, or other caregivers for the infant
- Health-care providers involved in the delivery or care of the infant
- Collaborating professional partners and agencies involved in caring for the infant and family

## **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

## **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

## **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **OKLAHOMA**

*Current Through August 2019*

### **Definitions**

**Citation: Ann. Stat. Tit. 10A, § 1-1-105; DHS Pol. Man. § 340:75-3-120**

'Deprived child' means 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.

'Plan of safe care' (POSC) means a plan developed for an infant with neonatal abstinence syndrome or a fetal alcohol spectrum disorder upon release from the care of a health-care provider that addresses the health and substance use treatment needs of the infant and mother or caregiver.

*In policy:* 'Fetal alcohol spectrum disorder' (FASD) is an overarching phrase that encompasses a range of possible diagnoses, including fetal alcohol syndrome (FAS), partial fetal alcohol syndrome, alcohol-related birth defects (ARBDs), alcohol-related neurodevelopmental disorder (ARND), and neurobehavioral disorder associated with prenatal alcohol exposure.

'Neonatal abstinence syndrome' (NAS), also referred to as 'substance-affected newborn' or commonly known as withdrawal, is caused by in utero exposure to legal or illegal drugs or substances.

A 'substance-affected infant' is an infant who was born experiencing withdrawal symptoms as a result of prenatal drug exposure or an FASD, as determined by the direct health-care provider.

A 'substance-exposed infant' is a newborn who tests positive for alcohol or a controlled dangerous substance. When the mother's substance use or abuse results in an infant born substance-exposed, the mother's home is evaluated to determine if the infant can receive the proper nurturing, nutrition, and attention to hygiene necessary for the infant to thrive.

### **Notification/Reporting Requirements**

**Citation: Ann. Stat. Tit. 10A, § 1-2-101; DHS Pol. Man. § 340:75-3-130**

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 NAS or FASD.

*In policy:* When a report is received concerning an infant diagnosed with NAS or FASD, the report is not accepted for investigation, and the following steps will be completed:

- The information is documented and screened out by the Hotline supervisor with a screen-out reason of 'plan of safe care.'
- The POSC referral is entered and assigned to the mother's county of residence.

A new report is entered and forwarded to the Hotline any time the NAS- or FASD-diagnosed infant is at risk of abuse or neglect.

### **Assessment of the Infant and Family**

**Citation: DHS Pol. Man. § 340:75-3-450**

When an infant is alleged to be born substance-exposed or affected, the child welfare (CW) specialist will obtain the infant's test results. Cord blood is the preferred testing method. When cord blood is not available, meconium is the preferred testing method.

The CW specialist evaluates the impact of the following:

- Substance use or abuse on the person responsible for the child's (PRFC's) health, safety, and welfare ability to provide care for the infant
- The PRFC's drug of choice and how it affects the PRFC's overall functioning, cognitive ability, and safety decisions

The PRFC who uses methamphetamines, phencyclidine (PCP), heroin, or cocaine, or any combination of drugs is viewed as unable to provide minimal basic care for the infant or child.

### **Responsibility for Development of the Plan of Safe Care**

**Citation:** Ann. Stat. Tit. 10A, § 1-2-102; DHS Pol. Man. § 340:75-3-450

Whenever the department determines an infant has been diagnosed with NAS or FASD, but the referral is not accepted for investigation, the department shall develop a POSC that addresses both the infant and affected family member or caregiver. The POSC shall address, at a minimum, the health and substance use treatment needs of the infant and affected family member or caregiver.

Whenever the infant is diagnosed with NAS or FASD, the CW specialist develops a POSC for the infant and mother or caregiver, as follows:

- When a referral is received and subsequently screened out and assigned as a POSC, contact is made with the mother or caregiver within 5-business days of receiving the referral.
- When a referral is received and accepted for Child Protective Services (CPS) investigation, a POSC is required in addition to following CPS investigation and safety analysis protocols.
- The CW specialist inquires about any plans previously developed by a hospital or medical professional to address the infant's and the mother's or caregiver's health and substance use or abuse treatment needs. Such plans are appropriate for inclusion in the POSC.

### **Services for the Infant**

**Citation:** DHS Pol. Man. § 340:75-3-450

An infant who tests positive is referred to services to alleviate the effects of the substance on the child's development.

The POSC includes referring the infant to SoonerStart (early intervention program) and a medical provider to evaluate the effects of the substance on the child's development. When available, a referral to a pediatric NAS clinic is preferable.

### **Services for the Parents or Other Caregivers**

**Citation:** DHS Pol. Man. § 340:75-3-450

The mother or caregiver is referred to substance use or abuse services that include a substance abuse assessment.

As part of the POSC, the CW specialist evaluates if other service referrals are needed for the parent or caregiver and makes those referrals as necessary. Examples may include referrals to receive assistance with housing, transportation, or daycare services.

### **Monitoring Plans of Safe Care**

**Citation:** Ann. Stat. Tit. 63, § 1-550.3; DHS Pol. Man. § 340:75-3-450

The department shall establish and maintain an up-to-date record of infants born exposed to alcohol and other harmful substances. The record shall include data necessary for surveys and scientific research and other data that is necessary and proper to further the recognition, prevention, and treatment of infants born addicted to or prenatally exposed to harmful substances. The record shall include, but not be limited to, the following information:

- The classification of the birth hospital, whether it is public or private
- Results of the toxicology report on an infant and its mother and, if positive, the type of drug or drugs involved
- The date of birth, birth weight, gestational age, and race of the infant

- The county of residence
- The date and county of the report
- Demographic information on the mother, including, but not limited to, age, race, education level, marital status, and income level; whether prenatal care was received and the type of prenatal care received; and whether the care was received was private or in a public health clinic or hospital clinic
- The type of treatment and whether the mother was referred for inpatient or outpatient care
- Whether the child was recommended for removal from the custody of the parent

The department shall compile and evaluate information received from the reports required pursuant to this section into a report to be distributed on or before January 1 of each year to the governor, the president pro tempore of the senate, the speaker of the house of representatives, and such other persons as the department deems advisable or necessary.

*In policy:* Within 60 calendar days of the POSC's assignment, the CW specialist shall contact the service providers and parent or caregiver prior to the POSC's closure to find out the infant's and the mother's or caregiver's progress in services. At any time during the POSC referral when the CW specialist becomes aware of allegations of abuse or neglect or has concerns for the safety of the newborn or children in the home, the CW specialist will inform the mother or caregiver that the POSC referral is being upgraded to a CPS investigation. The CW specialist will then begin a CPS investigation and safety analysis, per regulation.

## **OREGON**

*Current Through August 2019*

### **Definitions**

**Citation: Admin. Code § 413-080-0050**

'Plan of care' means a written plan for a substance-affected infant and the infant's family, focused on meeting health needs and substance disorder treatment needs and developed in collaboration with the family, the health-care provider, community agencies, and the child welfare agency, when appropriate.

'Substance-affected infant' means an infant, regardless of whether abuse is suspected, for whom prenatal substance exposure is indicated at birth and subsequent assessment by a health-care provider identifies signs of substance withdrawal; a fetal alcohol spectrum disorder (FASD) diagnosis; or detectable physical, developmental, cognitive, or emotional delay or harm that is associated with prenatal substance exposure. Prenatal substance exposure is determined by a positive toxicology screen from the infant or the mother at delivery or credible information the mother had an active untreated substance use disorder during the pregnancy or at the time of birth.

### **Notification/Reporting Requirements**

**Citation: Ann. Stat. § 419B.010**

Any public or private official who has reasonable cause to believe that any child with whom the official comes in contact has suffered abuse or that any person with whom the official comes in contact has abused a child shall immediately report or cause a report to be made.

### **Assessment of the Infant and Family**

**Citation:** Admin. Code § 413-015-0212; CW Proc. Man. Ch. 4, § 20

When a screener receives a report that a child is identified as a substance-affected infant, the screener must do the following:

- Ask the reporter whether a plan of care has been developed
- Ask the reporter whether the substance-affected infant and family were referred to services

*In policy:* Prenatal substance exposure is determined by a positive toxicology screen from the infant or the mother at delivery or credible information that the mother had an active untreated substance use disorder during the pregnancy or at the time of birth.

In addition to the information typically addressed in ongoing safety plans and case plans, the caseworker should address behaviors, conditions, and circumstances specific to substance use when an infant on their caseload has been exposed to or affected by substances.

When working with a substance-exposed or substance-affected infant and the infant's family, the caseworker, in addition to the typical planning considerations, should consider planning specific to substance use and infant care, such as the following:

- Treatment compliance (e.g., attendance to individual, group, case management meetings; drug-testing attendance and results)
- Treatment progress (e.g., treatment plan progress, behavioral changes, phase progression)
- Changes in treatment plan (e.g., diagnosis, level of care, drug-testing requirements, service recommendations)
- Observations of parent-child interaction, including any child risk and safety concerns (e.g., unsafe home environment or parent relocation, indicators of substance use)
- Outcomes monitoring (e.g., sustaining long-term recovery, improved functioning)

### **Responsibility for Development of the Plan of Safe Care**

**Citation:** Admin. Code § 413-080-0065; CW Proc. Man. Ch. 4, § 20

When a child on an open case is identified as a substance-affected infant, the caseworker must do the following:

- Ensure a plan of care is developed
- Ensure the substance-affected infant and family are referred to services identified in the plan of care
- Document the plan of care and referrals made in the Department of Human Services' electronic information system

*In policy:* When providing support and services to families where substance use is identified, it is important to use a multidisciplinary approach that draws on trauma-informed professional expertise across agencies. These providers include medical providers; public health, such as home visiting nurses; chemical dependency programs; social services; mental health; and early intervention services.

When a child is identified as a substance-affected infant, the caseworker must reach out to the health-care provider, hospital social worker, or others engaged with the family and determine if a plan of care has been developed and whether service referrals were made for the infant or the infant's family. The caseworker must ensure a plan of care is developed and service referrals identified in the plan for the infant and the infant's family have been made.

Developing a plan of safe care (POSC) involves input from the mother, father, and other caregivers and uses a multidisciplinary team approach to provide coordinated and complete care. The team may include the following:

- Child welfare workers
- Medical practitioners
- Substance use disorder treatment staff
- Mental health practitioners
- Early childhood intervention specialists
- Home visitors
- Public health practitioners
- Members of the family's Tribe
- Others, as appropriate

While in most cases the health-care provider will be leading the plan of care's development, it is developed in collaboration with the family, other social service agencies, and—when child welfare is involved—with the CPS worker or permanency worker. If the health-care provider or other service providers are not taking the lead, it is important for the permanency worker to do so. When a substance-affected infant is identified on an open case, a plan of care must be developed and service referrals made.

If preferable, the permanency worker can incorporate the elements of the plan into the ongoing safety plan or case plan, depending on which element fits best where and what plans are pertinent to the specific family. When a plan of care has been developed or another person is taking the lead, the caseworker must ask for a copy or for information about the plan and referred services.

### **Services for the Infant**

**Citation: CW Proc. Man. Ch. 4, § 20; Form OHA 1394**

The POSC includes the physical health, substance use disorder treatment needs, general functioning, development, safety, and any special care needs of the infant who may be having physical effects or withdrawal symptoms from prenatal exposure.

The plan of care should address the following:

- Medical care for the newborn
- Infant service/resource referrals plan (e.g., Community Health Nurse, Early Intervention, Infant Toddler Mental Health, WIC)

### **Services for the Parents or Other Caregivers**

**Citation: CW Proc. Man. Ch. 4, § 20; Form OHA 1394**

The POSC includes the following:

- The parents' or caregivers' physical, social, and emotional health and substance use disorder treatment needs
- Services and supports to improve the parents' or caregivers' capacity to nurture and care for the infant

The plan of care form should be incorporated in the discharge plan or other written document. Regardless of where the plan is documented, it should be developed prior to discharge from the hospital and can be used as a tool prior to the child's birth. The plan should do the following:

- Identify who participated in its development and note who is taking the lead for monitoring
- Identify people or organizations the parent can contact and include the contact information
- Address the following:
  - Medical care for the parent
  - Safe housing, food, basic needs
  - Safe sleep
  - Routine child care, if the parent is in school or employed
  - Emergency child care
  - Transportation
  - Parenting support (e.g., address parent's awareness of impact to infant and responsiveness to infant needs)
  - Parent service/resource referrals plan (e.g., alcohol and drug or mental health assessment/treatment, domestic violence)

### **Monitoring Plans of Safe Care**

**Citation: CW Proc. Man. Ch. 4, § 20**

The caseworker must identify the child as a substance-affected infant in OR-Kids. Identifying substance-affected infants will allow child welfare to track and report related data. It also is a way to identify children (and families) who may need additional support and services.

## **PENNSYLVANIA**

*Current Through August 2019*

### **Definitions**

This issue is not addressed in the statutes and regulations reviewed.

### **Notification/Reporting Requirements**

**Citation: Cons. Stat. Tit. 23, § 6386**

For the purpose of assessing a child and the child's family for a plan of safe care (POSC), 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 age 1 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 (FASD)

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.

### **Assessment of the Infant and Family**

**Citation: Cons. Stat. Tit. 23, § 6386**

The department, in collaboration with the Department of Health and the Department of Drug and Alcohol Programs, shall develop written protocols that include, but are not limited to, the following:

Definitions and evidence-based screening tools, based on standards of professional practice, to be utilized by health-care providers to identify a child born affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder



- Notification to the department that a child born affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder has been born and identified

Ongoing involvement of the county agency after taking into consideration the individual needs of the child and the child's parents and immediate caregivers may not be required.

### **Responsibility for Development of the Plan of Safe Care**

**Citation: Cons. Stat. Tit. 23, § 6386**

The department, in collaboration with the Department of Health and the Department of Drug and Alcohol Programs, shall develop written protocols that include, but are not limited to identification, informed by an assessment of the needs of the child and the child's parents and immediate caregivers, of the most appropriate lead agency responsible for developing, implementing, and monitoring a POSC, informed by a multidisciplinary team meeting that is held prior to the child's discharge from the health-care facility. The multidisciplinary team may include representatives of the following:

- Public health agencies
- Maternal and child health agencies
- Home visitation programs
- Substance use disorder prevention and treatment providers
- Mental health providers
- Public and private children and youth agencies
- Early intervention and developmental services
- Courts
- Local education agencies
- Managed care organizations and private insurers
- Hospitals and medical providers

### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

**Citation: Cons. Stat. Tit. 23, § 6386**

The department, in collaboration with the Department of Health and the Department of Drug and Alcohol Programs, shall develop written protocols that include, but are not limited to engagement of the child's parents and immediate caregivers in order to identify the need for access to treatment for any substance use disorder or other physical or behavioral health condition that may impact the safety, early childhood development, and well-being of the child.

### **Monitoring Plans of Safe Care**

**Citation: Cons. Stat. Tit. 23, § 6386**

The department, in collaboration with the Department of Health and the Department of Drug and Alcohol Programs, shall develop written protocols that include, but are not limited to, collection of data to meet Federal

and State reporting requirements.

## **PUERTO RICO**

*Current Through August 2019*

### **Definitions**

This issue is not addressed in the statutes reviewed.

### **Notification/Reporting Requirements**

This issue is not addressed in the statutes reviewed.

### **Assessment of the Infant and Family**

This issue is not addressed in the statutes reviewed.

### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes reviewed.

### **Services for the Infant**

This issue is not addressed in the statutes reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes reviewed.

## **RHODE ISLAND**

*Current Through August 2019*

### **Definitions**

**Citation: Gen. Laws § 40-11-2; DCYF POSC Guidance Doc.**

'Abused 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 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 to properly care for the child.

*In policy:* '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

'Affected by withdrawal' means a group of behavioral and physiological features in the infant that follow the abrupt discontinuation of a substance that has the capability of producing physical dependence. No clinical signs of withdrawal in the neonate should be attributed to in utero exposure to alcohol or other drugs without appropriate assessment and diagnostic testing to rule out other causes.

'Fetal alcohol spectrum disorders' (FASD) means the range of effects that can occur in an individual whose mother drank alcohol during pregnancy. These effects may include physical, mental, behavioral, and/or learning disabilities, with possible lifelong implications.

'Substance-exposed newborn' (SEN) means a newborn who was exposed to alcohol and/or a controlled substance (illicit or prescribed) ingested by the mother in utero. This exposure may be detected at birth through a drug screen or through withdrawal symptoms.

'Neonatal abstinence syndrome' (NAS) means a group of signs and symptoms that sometimes occur in a newborn who was exposed to opiate drugs while in utero.

'Health-care provider' means any provider of health-care services involved in the delivery or care of infants and/or care of children.

'Plan of safe care' (POSC) means the document to be completed by the newborn health-care provider for each substance-exposed newborn at the time of discharge from the birth hospital.

#### **Notification/Reporting Requirements**

**Citation: Gen. Laws § 40-11-6; DCYF POSC Guidance Doc.**

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 an FASD, he or she shall report the incident or cause a report thereof to be made to the Department of Children, Youth and Families (DCYF).

*In policy:* A child protective services (CPS) report must be made to the CPS Hotline for any substance-exposed newborn for whom there are concerns for child abuse or neglect, as defined in § 40-11-2. A report to the CPS Hotline is required in the following circumstances:

- A newborn has a positive toxicology screen for maternal illegal, nonprescribed, and/or misused prescribed controlled substance(s).
- A newborn has clinical signs or symptoms of drug withdrawal as the result of prenatal exposure to illegal, nonprescribed, or misused prescribed controlled substance(s), and/or due to undetermined substance exposure.
- A mother of a newborn tests positive for an illegal or nonprescribed controlled substance and/or misused prescribed controlled substance and the infant has not tested positive.
- A newborn is diagnosed with FASD.
- There are any safety concerns.

#### **Assessment of the Infant and Family**

**Citation: Gen. Stat. § 40-11-7; DCYF POSC Guidance Doc.**

DCYF shall investigate reports of child abuse and neglect in accordance with DCYF rules in order to determine the circumstances surrounding the alleged abuse or neglect and the cause thereof. In the event that after investigation it is determined by DCYF that the child is being or has been abused or neglected but that the circumstances of the child's family or otherwise do not require the removal of the child for his or her protection, DCYF may allow the child to remain at home and provide the family and child with access to preventative support and services.

*In policy:* DCYF may receive a report to the CPS Hotline alleging drug and/or alcohol abuse by a woman during her pregnancy. An investigation is initiated during pregnancy only if there are specific allegations of abuse and/or neglect of existing children in the home. An investigation may not be initiated during pregnancy if there are no children in the home. However, the DCYF employs a system of alerting hospitals to pregnant women for whom there is a potential for child safety concerns after birth. A hospital alert is issued in the following circumstances:

- There is a history of chronic substance use by one or both parents.
- One or both parents has a history of indicated child abuse/neglect.
- One or both parents has a child abuse/neglect conviction.
- There are concerns about the safety of the child after delivery.

### **Responsibility for Development of the Plan of Safe Care**

**Citation: DCYF POSC Guidance Doc.**

DCYF must identify infants at risk of child abuse and neglect as a result of prenatal substance exposure, ensure that a POSC is developed for these infants, and ensure the referral of these infants and affected caregivers to appropriate services. The Rhode Island Department of Health (RIDOH) is assisting in the State's efforts to implement POSCs.

A POSC must be completed by the newborn health-care team prior to discharge from the birth hospital for each substance-exposed newborn. Situations that require a POSC, but not a CPS report to the Hotline, include the following:

- The mother is engaged in medication-assisted treatment for substance use disorder, and there are no safety concerns.
- The mother is taking opioids as prescribed by her clinician, and there are no safety concerns.
- The mother is taking any medication or combination of medications as prescribed by her clinician, and there are no safety concerns.

The POSC is provided to the newborn's caregiver at the time of newborn hospital discharge. A copy of the POSC must be documented in the newborn's hospital medical record and additional copies must be given to the newborn's primary care provider and to DCYF for all infants with an open case with DCYF. A parent or guardian may consent to release of a copy of the POSC to other treatment and service providers.

### **Services for the Infant**

**Citation: DCYF POSC Guidance Doc.**

All substance exposed newborns must have a POSC at the time of discharge from the birth hospital. A POSC is developed at discharge by addressing supports in place for the health needs of the newborn and must include referrals to services and supports for the substance-exposed newborn.

### **Services for the Parents or Other Caregivers**

**Citation: DCYF POSC Guidance Doc.**

A POSC is developed at discharge by addressing supports in place and substance use disorder treatment needs of the parent and/or caregiver. The POSC may include services such as home visitation, early intervention services, and recovery supports. A POSC must include referrals to services and supports for the caregiver affected by substance use. Examples of such services and supports include, but are not limited to, home visiting

programs, early intervention services, and recovery supports.

### **Monitoring Plans of Safe Care**

**Citation: DCYF POSC Guidance Doc.**

RIDOH is responsible for collecting data on POSCs and providing to the DCYF the aggregate data to submit to the Federal office of the Administration of Children and Families. Federal law requires information on POSCs to be submitted to the DCYF for data tracking purposes and reporting to the Administration for Children and Families. RIDOH is responsible for collecting information on POSC from Rhode Island birth hospitals and for aggregating and submitting these data to DCYF quarterly.

Data submitted from RIDOH to DCYF must include the number of SENs, including the number diagnosed with NAS and FASD prior to release from the birthing hospital, the number of POSCs completed, and the number and types of service referrals included on the POSCs.

DCYF, RIDOH, the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals, and the Executive Office of Health and Human Services, with input from birthing hospital staff, will meet regularly to review the aggregate data on SENs and POSCs, the POSC process, and opportunities for system improvements to support families and ongoing interagency collaboration.

## **SOUTH CAROLINA**

*Current Through August 2019*

### **Definitions**

This issue is not addressed in the statutes and regulations reviewed.

### **Notification/Reporting Requirements**

This issue is not addressed in the statutes and regulations reviewed.

### **Assessment of the Infant and Family**

This issue is not addressed in the statutes and regulations reviewed.

### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **SOUTH DAKOTA**

*Current Through August 2019*

### **Definitions**

**Citation: Codified Laws § 26-8A-2**

The term 'abused or neglected child' includes 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.

### **Notification/Reporting Requirements**

**Citation: Codified Laws § 26-8A-35**

If a health-care practitioner has reason to believe based on a medical assessment of a mother or a newborn infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy, the health-care practitioner may administer, with or without the consent of the newborn infant's parent or guardian, a toxicology test to the newborn infant under the health-care practitioner's care to determine whether there is evidence of prenatal exposure to a controlled substance. If the test results are positive, the health-care practitioner shall report the results pursuant to § 26-8A-8.

### **Assessment of the Infant and Family**

This issue is not addressed in the statutes and regulations reviewed.

### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **TENNESSEE**

*Current Through August 2019*

### **Definitions**

**Citation: Admin. Pol. & Proc. § 14.21**

'Fetal alcohol spectrum disorders' (FASD) are a group of conditions that can occur in a person whose mother drank alcohol during pregnancy. These effects can include physical problems and problems with behavior and learning. Often a person with FASD has a mix of these problems.

'Neonatal abstinence syndrome' (NAS) is a condition in which a baby has withdrawal symptoms after being exposed to certain substances. Many times, the baby is exposed when the mother uses substances such as medications or illicit drugs during pregnancy, and after the baby is born (and separated from the mother's body), the baby goes through withdrawal because it is no longer receiving the substances.

A 'plan of safe care' (POSC) is a family permanency plan for child protective services noncustodial cases that involves an infant born with and identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal exposure from the use of illegal drugs or the misuse of legal drugs or chemical substances or has been diagnosed with NAS or FASD. The plan must provide for services that ensure the safety and well-being of the infant.

### **Notification/Reporting Requirements**

**Citation: Admin. Pol. & Proc. § 14.21**

Referrals received for infants (birth to 12 months of age) born with and identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal exposure from the use of illegal drugs, the misuse of legal drugs or chemical substances, or diagnosed with NAS or FASD will be identified as a Federal Comprehensive Addiction and Recovery Act of 2016 (CARA) case and must have a POSC to include services that ensure the safety and well-being of infants.

### **Assessment of the Infant and Family**

**Citation: Admin. Pol. & Proc. § 14.2**

A POSC is created in the context of a child and family team meeting and the worker must engage families in an on-going assessment of how their strengths and needs impact the safety, permanency, and well-being of the infant involved.

### **Responsibility for Development of the Plan of Safe Care**

**Citation: Admin. Pol. & Proc. § 14.2**

The Federal Comprehensive Addiction and Recovery Act of 2016 (P.L. 114-198) states that infants born with and identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal exposure from the use of illegal drugs or the misuse of legal drugs or chemical substances or has been with diagnosed with NAS or FASD must have a POSC for services that ensure the safety and well-being of the infant following the release from the care of health providers. This plan includes steps for addressing the health and substance use disorder treatment needs of the infant and affected family or caregivers.

A POSC is created if services can be identified and provided to the parent or caregiver prior to the infant's release from the hospital.

### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

### **Monitoring Plans of Safe Care**

**Citation: Admin. Pol. & Proc. § 14.2**

Specific tasks listed on the POSC include observable, measurable outcomes as well as the names of the persons responsible for the completion of each task. This is to include responsibilities of the family, the Department of Children's Services, and other community resources, including the provision of services and monitoring progress.

If the parents/caregivers cannot be located or refuse to accept the needed and recommended services, the worker shall document all efforts made to involve the parents/caregivers. If the participation of the parents/caregivers is critical to the safety and well-being of that child, court involvement may be warranted.

## TEXAS

*Current Through August 2019*

### Definitions

**Citation: Admin. Code Tit. 40, § 700.465**

The term 'neglectful supervision' includes the 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 under this section 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, the term '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

### Notification/Reporting Requirements

This issue is not addressed in the statutes and regulations reviewed.

### Assessment of the Infant and Family

**Citation: CPS Pol. Man. § 1952.1**

When a report is received that alleges that a newborn has been exposed to drugs or alcohol, the caseworker must complete a risk assessment within 30 days of the birth of the newborn.

### Responsibility for Development of the Plan of Safe Care

**Citation: CPS Pol. Man. § 1952.1**

The Department of Family and Protective Services may schedule a family team meeting or a family group conference to develop a safety plan for the substance-exposed newborn and his or her family.

### Services for the Infant

This issue is not addressed in the statutes and regulations reviewed.

### Services for the Parents or Other Caregivers

**Citation: CPS Pol. Man. § 1952.1**

During a home visit, the caseworker will provide the parent with available information about the following:

- Infant care and development
- Safe sleep precautions



- Sudden Infant Death Syndrome reduction
- Substance abuse
- Parenting
- Early Childhood Intervention programs

If services beyond the investigation are provided, the caseworker shall consider referring the mother (or the mother and newborn) to an inpatient substance abuse program.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **UTAH**

*Current Through August 2019*

### **Definitions**

**Citation: Admin. Code R512-80-2; DCFS Prac. Guidelines, Definitions**

'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.

*In policy:* 'Fetal alcohol spectrum disorder' (FASD) refers to a broader array of impairments than are reported for children suffering from fetal alcohol syndrome. In FASD, children exposed to alcohol in the womb may exhibit one or more of the following characteristics or behaviors:

- Inadequate growth in the womb or after birth
- Facial abnormalities, such as small eye openings
- Poor coordination
- Hyperactive behavior
- Learning disabilities (e.g., speech and language delays)
- Mental retardation or low IQ
- Poor reasoning and judgment skills
- Poor impulse control
- Sleep and sucking disturbances in infancy

### **Notification/Reporting Requirements**

**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.

### **Assessment of the Infant and Family**

**Citation: Ann. Code § 62A-4a-409**

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.

The division shall use an interdisciplinary approach when appropriate in dealing with reports made under this part. The division shall convene a child protection team to assist the division in the division's protective, diagnostic, assessment, treatment, and coordination services. The division may include members of a child protection unit in the division's protective, diagnostic, assessment, treatment, and coordination services. Whenever possible, the team shall include representatives of the following:

- Health, mental health, education, and law enforcement agencies
- The child
- Parent and family support groups, unless the parent is alleged to be the perpetrator
- Other appropriate agencies or individuals

#### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

#### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

#### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **VERMONT**

*Current Through August 2019*

### **Definitions**

**Citation: Family Serv. Pol. Man., Pol. # 50**

A 'plan of safe care' (POSC) is a written plan for a substance-exposed newborn and the infant's family that is focused on meeting health needs and substance disorder treatment needs and is developed in collaboration with the family, the health-care provider, community agencies, and child welfare, when appropriate.

### **Notification/Reporting Requirements**

**Citation: DCF POSC FAQs**

Health-care providers involved in the care and delivery of substance-exposed newborns are responsible for making a notification to the Department for Children and Families (DCF). This ideally takes place prior to the newborn's discharge.

A report is made to DCF when there are child protection concerns by calling the child protection hotline. A notification is made to DCF when the newborn has been prenatally exposed to substances but there are no child protection concerns. A notification does not contain identifying information.

Regardless of whether or not there is an open case with DCF, hospital staff are mandated to make a report if there are child protection concerns, including substance exposure, as follows:

- A newborn has a positive toxicology screen for illegal or nonprescribed substances, other than solely marijuana.
- A newborn is being treated for neonatal abstinence syndrome as the result of maternal use of illegal, nonprescribed, or misuse of prescribed medication, or due to undetermined exposure.
- A newborn has been diagnosed with fetal alcohol spectrum disorder.

Regardless of whether there is an open case with DCF, hospital staff are required to make a notification and complete a POSC if the substance exposure consists of the following:

- The mother is stable and engaged in medication-assisted treatment with methadone or buprenorphine.
- The mother is being treated with opioids for chronic pain by a physician.
- The mother is taking benzodiazepines as prescribed by her physician.
- The newborn was prenatally exposed to marijuana.

### **Assessment of the Infant and Family**

This issue is not addressed in the statutes and regulations reviewed.

### **Responsibility for Development of the Plan of Safe Care**

#### **Citation: DCF POSC FAQs**

When there are no child protection concerns related to the newborn, hospitals are required to complete the POSC with the mother/caregivers prior to discharge. If a report has been made to DCF because of child protection concerns, and the report is accepted, DCF will complete their own POSC.

The POSC should be provided to the newborn's primary care provider upon discharge. The primary care provider can use the information and engage the mother/caregiver at follow-up appointments. Hospital staff may choose to incorporate the POSC into their electronic records. The mother/caregivers should be given a copy of the POSC, and they are free to share that information with other providers and extended support network.

### **Services for the Infant**

#### **Citation: DCF POSC FAQs**

Specific supports for the infant may include any of the following:

- Home visiting
- WIC
- Children's integrated services
- Child care
- Safe sleep plan

### **Services for the Parents or Other Caregivers**

#### **Citation: DCF POSC FAQs**

The plan provided to the mother will do the following:

- Explain how to keep the baby healthy, including supports such as financial help, child care, and health-care services
- Connect the mother to resources, including public benefits, support groups, well-baby visits, and information

Specific supports that may be discussed with the mother/caregiver in developing the POSC may include any of the following:

- Medication-assisted treatment
- Mental health counseling
- Substance abuse counseling
- Recovery supports

- Smoking cessation
- Parenting groups
- Home visiting
- WIC
- Housing assistance
- Financial assistance
- Child care
- Safe sleep plan

### **Monitoring Plans of Safe Care**

#### **Citation: DCF POSC FAQs**

The purpose of the notification is to provide States and the Federal government with the number of substance-exposed infants on an annual basis to address the ongoing services and needs for this population. The annual numbers reported to the Federal government also include all accepted DCF child protection reports regarding substance-exposed newborns.

## **VIRGIN ISLANDS**

*Current Through August 2019*

### **Definitions**

This issue is not addressed in the statutes reviewed.

### **Notification/Reporting Requirements**

This issue is not addressed in the statutes reviewed.

### **Assessment of the Infant and Family**

This issue is not addressed in the statutes reviewed.

### **Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes reviewed.

### **Services for the Infant**

This issue is not addressed in the statutes reviewed.

### **Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes reviewed.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes reviewed.

## VIRGINIA

*Current Through August 2019*

### Definitions

**Citation: Child & Family Serv. Man. § C.10**

The term 'assessment' refers to an in-depth look at an individual's past and current substance use and the impact of that use on the overall functioning of that individual. Assessment is a process for defining the nature of that problem, determining a diagnosis, and developing specific treatment recommendations for addressing the problem or diagnosis.

'Fetal alcohol spectrum disorders' (FASD) is an umbrella term describing the range of effects that can occur in an individual whose mother drank alcohol during pregnancy. These effects may include physical, mental, behavioral, or learning disabilities with possible lifelong implications.

'Neonatal abstinence syndrome' (NAS) is a group of problems that occur in a newborn as a result of sudden discontinuation of addictive opioids or other legal or illegal drugs to which the newborn was exposed while in the mother's womb.

### Notification/Reporting Requirements

**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, pursuant to § 32.1-127(B)(6).

### Assessment of the Infant and Family

**Citation: Ann. Code § 63.2-1506; Child & Family Serv. Man. § C.10**

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 of Social Services (LDSS) 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.

*In policy:* An essential part of the initial safety assessment is to complete a brief substance use screening to determine if a substance abuse assessment is needed and if so, what services would best meet the needs of the mother. A substance use screening should include questions concerning the following:

- Frequency and amount of alcohol consumption prior to and during pregnancy
- Frequency and amounts of over-the-counter prescriptions and legal or illegal substances prior to and during pregnancy
- Effects of substance use on life areas such as relationships, employment, legal, etc.
- Other parent or partner substance use
- Previous referrals for substance abuse evaluation or treatment
- Previous substance use treatment or efforts to seek treatment.

In addition, conditions or behaviors that may indicate risk of harm should be assessed, including, but not limited to, the following:

- Medical and/or physical problems in the infant
- Medical monitoring and/or special equipment or medications needed by the infant
- Lack of prenatal care or inconsistent prenatal care
- Previous delivery of a substance-exposed infant (SEI)
- Prior child protective services (CPS) history
- Prior removal of other children by the courts or voluntary placement with relatives
- Lack of preparations for the care of the infant
- Intellectual limitations that may impair the mother's ability to care for the child
- Psychiatric illness
- Home environment that presents safety or health hazards
- Evidence of financial instability
- Limited or no family support
- The age or immaturity of the parent(s)
- Parenting skills demonstrated in the health-care setting that suggest a lack of responsiveness to the SEI's needs (e.g., little or no response to infant's crying, poor eye contact, resistance to or difficulties in providing care)
- Domestic violence

Collateral involvement to determine risk and possible services is crucial and may include contacts with the immediate or extended family, birthing hospital, pediatrician, and substance use disorder evaluation and treatment providers. At the minimum, contact should be made with health-care providers, particularly those at the birthing hospital, in order to obtain a copy of the discharge plan and gather the following information:

- To identify how the infant was affected by in utero substance exposure, including results of laboratory tests or toxicology studies done on the infant
- To identify any needed medical treatment for the child or mother
- To assess the mother's attitude and behavior with the infant
- To determine the expected discharge dates of the mother and infant
- To determine whether there are other children in the home at risk

### **Responsibility for Development of the Plan of Safe Care**

**Citation: Ann. Code § 32.1-127; Child & Family Serv. Man. § C.10**

The regulations regarding the licensure of hospitals require that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. The discharge planning process shall involve, to the extent possible, the father of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification of any substance-abusing, postpartum woman, the hospital shall notify, subject to Federal law restrictions, the community services board (CSB) of the jurisdiction in which the woman resides to appoint a discharge plan manager. The CSB shall implement and manage the discharge plan.

*In policy:* The plan of safe care (POSC) should address the needs of the child as well as those of the parent, as appropriate, and ensure that appropriate services are provided to ensure the infant's safety. A POSC should begin when the mother is pregnant and be initiated by her health-care providers. Once the LDSS becomes involved in an SEI referral, the LDSS becomes a part of this POSC. The LDSS is one of many agencies that can provide a POSC for the SEI and the mother.

A POSC should incorporate the mother's (and potentially the other primary caregivers) need for treatment for substance use and mental disorders, appropriate care for the infant who may be experiencing neurodevelopmental or physical effects or withdrawal symptoms from prenatal substance exposure, and services and supports that strengthen the parents' capacity to nurture and care for the infant and to ensure the infant's continued safety and well-being.

The LDSS must complete an initial safety assessment of the SEI and family. All reports involving a SEI will require a safety plan be developed because of the safety concerns regarding these infants. A safety plan is not the same as a POSC but is considered one critical component of the POSC. A safety plan addresses immediate safety concerns and needs, while the POSC addresses both short- and long-term needs.

### **Services for the Infant**

**Citation: Ann. Code § 32.1-127; Child & Family Serv. Man. § C.10**

Appropriate referrals may include, but need not be limited to, comprehensive early intervention services for infants and toddlers with disabilities and their families.

*In policy:* The hospital discharge plans should include, but are not limited to, the following:

- A follow-up appointment for pediatric care for the infant within 2-4 weeks
- A referral to early intervention services for a developmental assessment and early intervention services for the infant

Regardless if a CPS on-going case is opened for services, the LDSS shall refer for early prevention services any child under the age 3 who is identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

### **Services for the Parents or Other Caregivers**

**Citation: Ann. Code § 32.1-127; Child & Family Serv. Man. § C.10**

Appropriate referrals may include, but need not be limited to, treatment services and family-oriented prevention services.

*In policy:* Postpartum women with substance use disorders and their newborns may have multiple health care, treatment, safety, and environmental needs. Their hospital discharge plans should include, but are not limited to, the following:

- A referral of the mother to the local CSB for a substance use assessment and implementation of the discharge plan.
- Information and medical directives regarding potential postpartum complications and, as appropriate, indicators of substance use withdrawal and postpartum depression
- A follow-up appointment for the mother for postpartum gynecological care and family planning

In addition to substance abuse services, other services may include, but are not limited to, the following:

- Child care
- Relapse prevention
- Parenting education
- Job skills training/employment
- Mental health assistance
- Safe housing
- Support systems

Home visiting services match parents and caregivers with trained paraprofessionals who can provide information and support during pregnancy and throughout the child's earliest years. Home visiting programs support healthy prenatal behaviors and parenting attitudes, engage infants in meaningful learning activities, build positive parent-child relationships, and promote family self-sufficiency. Project Link is one home visiting program offered in Virginia and is specifically for pregnant and parenting substance-using women.

### **Monitoring Plans of Safe Care**

**Citation: Child & Family Serv. Man. § C.10**

The plan also should ensure a process for continued monitoring of the family and accountability of responsible agencies, such as substance use disorder treatment, home visiting, public health, and health-care providers for the infant and mother.

## **WASHINGTON**

*Current Through August 2019*

### **Definitions**

**Citation: Admin. Code Tit. 110, § 110-50-0430**

'Alcohol-affected infant' means a child age birth through 12 months who was exposed to alcohol in utero and may demonstrate physical, behavioral, or cognitive signs that may be attributed to alcohol exposure.

'Drug-affected infant' means a child age birth through 12 months who was exposed to drugs or substances in utero and demonstrates physical, behavioral, or cognitive signs that can be attributed to exposure to drugs or substances.

### **Notification/Reporting Requirements**

This issue is not addressed in the statutes and regulations reviewed.

### **Assessment of the Infant and Family**

This issue is not addressed in the statutes and regulations reviewed.



### **Responsibility for Development of the Plan of Safe Care**

**Citation: DCYF Form # 15-491**

A plan of safe care must be developed by the Department of Children, Youth, and Families with the family and documented for all screened-in intakes that identify a newborn as affected by substance(s).

### **Services for the Infant**

**Citation: DCYF Form # 15-491**

Services for the affected infant will include medical care and referral to early intervention services.

### **Services for the Parents or Other Caregivers**

**Citation: DCYF Form # 15-491**

Services for the parents may include any of the following:

- Safe housing
- Information about safe sleep
- Routine child care
- Emergency child care
- Parenting support
- Crisis planning (e.g., 'purple crying')
- Service referrals
- Referrals to resources

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **WEST VIRGINIA**

*Current Through August 2019*

### **Definitions**

**Citation: CPS Pol. Man. § 2.3**

The term 'drug-affected infants' describes infants referred by medical staff, including hospital social workers, who are less than 1 year old, who test positive for legal or illegal substances or prescribed medication or suffer from withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder.

'Neonatal abstinence syndrome' refers to a group of problems that occur in a newborn who was exposed to addictive illegal or prescription drugs while in the mother's womb.

A 'plan of safe care' (POSC) is a plan to ensure the safety and well-being for the infant born and identified as being affected by legal or illegal substance abuse, withdrawal symptoms, or testing positive for substances, or a fetal alcohol spectrum disorder following release from the care of health-care providers by addressing the health and substance use disorder treatment needs of the infant and affected family or caregiver. This includes referrals to and delivery of appropriate services for the infant and affected family or caregiver.

## **Notification/Reporting Requirements**

**Citation: CPS Pol. Man. § 3.21**

The Child Abuse Prevention and Treatment Act (CAPTA) is a key piece of Federal legislation that guides child protective services. This legislation requires that child protective services and other community service providers address the needs of newborn infants who have been identified as being affected by alcohol, legal and/or illegal substance use or abuse, or experiencing withdrawal symptoms resulting from prenatal drug exposure. Health-care providers who are involved in the delivery or care of such infants are required to make a report to child protective services.

## **Assessment of the Infant and Family**

**Citation: CPS Pol. Man. §§ 3.21; 4.40**

When a report is received specifically from a medical professional, including a hospital social worker, indicating that an infant was born testing positive for a legal or illegal drug or prescribed medication or an infant is suffering from withdrawal from a legal or illegal drug or prescribed medication (including drugs that treat addiction), or fetal alcohol spectrum disorder, the child will be identified as a drug-affected infant. For reports received from medical professionals of drug-affected infants, the intake assessment worker will gather the following information:

- The name and address of the medical facility where the child was delivered
- The infant's drug test results, if applicable, including type of drug for which the infant tested positive
- The birth mother's drug test results, if applicable, including type of drug for which she tested positive
- Information from the delivering obstetrician, nurse practitioner, mid-wife, or other qualified medical personnel as to the condition of the infant upon birth, including specific data as to how the in-utero drug or alcohol exposure has affected the infant (e.g., withdrawal, physical and/or neurological birth defects)
- The infant's birth weight and gestational age
- The extent of prenatal care received by the birth mother
- The names and ages of any siblings the infant may have, including any abuse, neglect or safety concerns regarding the siblings

Once referral regarding a drug-affected infant has been received, the caseworker will review the family's available records and history of past involvement with the Department of Health and Human Resources, including other adults that would be considered caregivers and residing in the household. Since most children are released within 24 hours of birth, the caseworker must meet face to face with the infant and infant's family to begin the assessment and implement a protection plan if needed.

The caseworker should thoroughly assess the family, gathering information from the parents and other pertinent collaterals. Suggested collaterals are, but should not be limited to, hospital staff, social worker, pediatrician, drug counselors, therapists, and teachers. Hospital records for both the mother and child should be obtained. This could include toxicology reports and withdrawal scores of the infant and nurses/doctors progress notes.

The caseworker will assess child safety and determine if maltreatment has occurred. If maltreatment occurred and no other safety items are identified, a case will be opened, a family case plan completed, and appropriate services put in place to address the drug use and/or any other contributing factors. It is important for the worker to obtain information about the parents' interaction with the infant and any relevant statements the parents revealed to staff about the ability to properly care for the child.

## **Responsibility for Development of the Plan of Safe Care**

**Citation: CPS Pol. Man. § 4.40**

CAPTA requires that children identified as being drug affected have a POSC. If the assessment indicates a case should be opened, the family case plan will become the POSC.

According to CAPTA, all drug-affected infants require a POSC, but not all infants identified as drug-affected are maltreated. An assessment needs to be completed to make that determination. For those infants who need a POSC because they are identified as drug affected (less than 1 year of age, test positive or show withdrawal symptoms, and the referral is from medical source), and if the assessment indicates a case should be opened (maltreatment has occurred and/or an impending danger has been identified), the family case plan is their POSC. If an assessment is completed and no maltreatment has occurred and no impending dangers have been identified, then only a POSC is required to be completed.

A POSC is not to be viewed concretely, as a singular document. It is fluid and functions on a continuum. It will change as the needs of the child and family change. The responsibility of the department is to complete an assessment after the receipt of the referral when the child is born drug affected, determine the needs of the family, and provide the appropriate services.

## **Services for the Infant**

**Citation: CPS Pol. Man. § 4.40**

When the department has knowledge of a drug-affected infant, a referral to Birth to Three (early intervention program) must be initiated and clearly documented.

Needs will vary from family to family, but CAPTA requires that the department address substance use disorders, other mental health needs, and the medical needs of the infant.

## **Services for the Parents or Other Caregivers**

**Citation: CPS Pol. Man. § 4.40**

Examples of interventions that may be necessary for the family include, but are not limited to, the following:

- Protection plan, safety plan, and safety services
- Drug and/or alcohol assessment and treatment
- Medication-assisted treatment
- Mental health assessment
- Psychological or psychiatric evaluation
- Counseling
- Alcoholics Anonymous or Narcotics Anonymous
- Birth to Three services
- Right from the Start
- Home visitation
- Medical services
- Education on safe sleep practices and drug-affected infant needs

## **Monitoring Plans of Safe Care**

**Citation: CPS Pol. Man. § 4.40**

Upon the child's discharge from the hospital, the caseworker should visit the family's home to assess for safety and continue the assessment process. The worker should consider the parent's preparedness for the child, as

evidenced by the presence of adequate baby supplies and sleeping arrangements for the infant. Intentions/beliefs the parents have regarding sleeping arrangements also should be discussed with all caregivers.

During the assessment process, it is important to assess the caregivers/parents' ability to parent the child and if the caregivers/parents have made strides to correct the substance abuse issues. This could include what methods of treatment intervention the parent chose and compliance with those treatments.

In situations where the mother has been prescribed medication due to a physical illness or mental illness, including medications to treat addiction, it is very important for the caseworker to do the following:

- Obtain documentation from the prescribing physician about the mother's illness and maintenance of the medication
- Obtain records from the obstetrician to determine the mother's cooperation with prenatal appointments and to determine if the mother consulted about the effects of the medications to help to determine if the mother did what was in the best interest of her child
- Assess if the mother has taken the medication as advised by a physician

The case should be evaluated every 90 days to determine if it can be closed.

## **WISCONSIN**

*Current Through August 2019*

### **Definitions**

**Citation: Ann. Stat. § 48.02 (17m)**

'Special treatment or care' means professional services that need to be provided to a child or his or her family to protect the well-being of the child, prevent placement of the child outside the home, or meet the special needs of the child. 'Special treatment or care' also means professional services that need to be provided to the expectant mother of an unborn child to protect the physical health of the unborn child and of the child when born from the harmful effects resulting from the habitual lack of self-control of the expectant mother in the use of alcohol, controlled substances, or controlled substance analogs, exhibited to a severe degree. This term includes, but is not limited to, medical, psychological, or psychiatric treatment; alcohol or other drug abuse treatment; or other services that the court finds to be necessary and appropriate.

### **Notification/Reporting Requirements**

**Citation: Ann. Stat. §§ 146.0255; 146.0257**

If the results of a test for controlled substances 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.

The physician who performs the test shall provide the infant's parents or guardian with all the following information:

- A statement of explanation concerning the test that was performed, the date of performance of the test, and the test results
- A statement of explanation that the test results of an infant must be disclosed to a child welfare agency if the test results are positive

If a physician diagnoses that an infant has fetal alcohol spectrum disorder (FASD), 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 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 FASD

### **Assessment of the Infant and Family**

**Citation: Ann. Stat. §§ 146.0255; 146.0257; Policy Memo # 2004-12**

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 mother has controlled substances in their bodily fluids because of the use of controlled substances by the mother while she was pregnant. The physician may test the infant or expectant mother to ascertain whether or not the infant or mother has controlled substances in the bodily fluids of the infant or mother, if the physician determines that there is a serious risk that there are controlled substances in the bodily fluids of the infant or mother because of the use of controlled substances by the mother while she was pregnant and that the health of the infant may be adversely affected by the controlled substances.

If a hospital employee who provides health care, social worker, or intake worker suspects that an infant has FASD, 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 FASD, the physician shall evaluate the infant to diagnose whether the infant has that disorder.

*In policy:* If the referral is accepted for assessment under § 46.238, the following information must be gathered and documented:

- The infant's general functioning and development, including the effects of the illegal substances on the infant
- The parents' individual functioning, including communication, coping, problem solving, life management, control of emotions, use of alcohol or other substances, mental health functioning, sociability/relationships with others, self-concept, etc.
- If there are other children in the home, the parents' parenting practices (discipline, nurturing, understanding of child's needs and capabilities, expectations of child, satisfaction with parenting role, etc.)
- If there are no other children in the home, the parents' capacity and commitment to parent (understanding of infant's special needs and plans already made to address them, general day-to-day plan for caring for the infant, etc.)
- The family's functioning, strengths, and current stresses (roles and boundaries, communication, decision making, relationships, integration into the community, power distribution, presence/absence of domestic violence, organization and stability, demographics, etc.)

The above information must be used to assess safety. As the fact that the mother has used illegal substances is apparent, the assessment must include a special focus on her current use of illegal substances and the impact that will have on the infant's care.

### **Responsibility for Development of the Plan of Safe Care**

**Citation: Policy Memo # 2004-12**

The purpose of this policy is to assess the safety of an infant born with controlled substances or controlled substance analogs in his or her system and to develop a plan of safe care (POSC) for that infant. This policy applies to an infant born with controlled substances or controlled substance analogs in his or her system, as determined by a physician pursuant to § 146.0255, when information does not indicate that the child has been abused or neglected or threatened with abuse or neglect. This policy does not apply to an infant born with controlled substances or controlled substance analogs in his or her system where there are reports of alleged maltreatment to the infant subsequent to birth. Such cases are to be handled as reports of alleged maltreatment under § 48.981.

Child protective services (CPS) will accept reports of an infant identified at birth as having controlled substances or controlled substance analogs in his or her system, pursuant to § 46.238, and assess the safety of the infant. CPS will develop a plan of care that reduces risk to the child and supports a safe environment, either an agency-managed safety plan or a referral to appropriate preventive community services or determine that the family has in place a POSC for the infant. The report is screened in as a child welfare services intake, and no decision regarding substantiation is made, as the report is made under § 46.238, not under § 48.981.

### **Services for the Infant**

**Citation: Ann. Stat. § 46.238**

If an agency, as defined in § 48.981(1)(ag), receives a report under § 146.0255(2) or 146.0257(2) that an infant was born to a mother who abused controlled substances, controlled substance analogs, or alcohol and that agency is a county department or a licensed child welfare agency under contract with that county department, the agency shall offer to provide appropriate services and treatment to the infant and the infant's mother.

### **Services for the Parents or Other Caregivers**

**Citation: Policy Memo # 2004-12**

If the infant is determined to be safe, the agency should refer the family to appropriate community resources and assist the family in accessing those resources unless the family refuses such assistance. The activities associated with referral to community resources should be documented in the case record.

### **Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

## **WYOMING**

*Current Through August 2019*

### **Definitions**

This issue is not addressed in the statutes and regulations reviewed.

### **Notification/Reporting Requirements**

This issue is not addressed in the statutes and regulations reviewed.

### **Assessment of the Infant and Family**

This issue is not addressed in the statutes and regulations reviewed.

**Responsibility for Development of the Plan of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.

**Services for the Infant**

This issue is not addressed in the statutes and regulations reviewed.

**Services for the Parents or Other Caregivers**

This issue is not addressed in the statutes and regulations reviewed.

**Monitoring Plans of Safe Care**

This issue is not addressed in the statutes and regulations reviewed.



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Services Administration for Children and  
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