RESOURCE

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Lawyering for Reproductive Justice

WHAT YOU NEED TO KNOW | FOR PROVIDERS

Prenatal Drug Exposure: CAPTA Reporting Requirements for Medical Professionals[1]

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Note: This report is up to date as of May 2026.

Why use this report?

As medical professionals who work with pregnant patients, you face numerous medical, legal, and ethical decision points when treating a patient for substance use during pregnancy, and when providing care to a neonate with drug or alcohol exposure. Sometimes, the legal requirements for reporting substance use or exposure are unclear, or may be the opposite of medical best practice. Moreover, patient privacy dictates careful attention to the law to avoid unnecessary reports that may lead to HIPAA violations. This report provides a state-by-state summary of testing and reporting requirements for drug use during pregnancy and for substance-exposed newborns. This report does not provide legal or medical advice, but is intended to help you differentiate what is legally required from what is merely state agency guidance. Importantly, only one state requires drug testing of pregnant and birthing patients in certain circumstances[2], and only two states mandate drug testing of newborns in certain circumstances.[3]

Your hospital, clinic, or practice may have additional reporting requirements that you should be familiar with. Providers can protect the therapeutic relationship and help patients maintain agency and confidentiality by:

- not reporting patients if not legally required;
- informing patients of what the provider may have to report prior to testing/treating the patient or neonate;
- obtaining informed and documented consent before drug testing birth parents or newborns;
- documenting the medical reason for a drug test in the patient's chart; and
- carefully considering what information is necessary to document in a medical chart.

Reporting a patient, even with the hope of connecting the family to resources, often leads to more harm.

Providers can also help protect their patients from state violence and family separation by ensuring that their hospital or clinic reporting policies do not conflict with state laws on medical privacy.

If you have any additional questions about state reporting requirements, please contact If/When/How's Technical Assistance team.[4] For continuing education on the science and laws around substance use during pregnancy, as well as understanding the harms of the family policing system (the "child welfare" or "child protective services" system),[5] check out the Doing Right at Birth webinar series.[6]

Who wrote this guide and why?

If/When/How: Lawyering for Reproductive Justice is a legal advocacy organization. We created this report because pregnant and postpartum people often experience state violence—from criminal investigations and prosecutions to forcible separation by the family policing system—as a result of unnecessary reports to the state by healthcare providers. Women of color, particularly Black women, bear a disproportionate share of this harm.[7] We often field questions from providers with concerns about if or when they are required to report substance exposure during pregnancy, especially as more providers see the harms of the family policing system firsthand.

Reporting a patient, even with the hope of connecting the family to resources, often causes more harm. Reporting is not resourcing, and accordingly, some families may be more likely to be surveilled and separated by the family policing system than to receive meaningful assistance.[8] This guide helps you understand the reporting laws in your state.

What is CAPTA, and what does it require?

The Child Abuse Prevention and Treatment Act (CAPTA) is federal legislation that provides funds for state agencies to address child abuse and neglect.[9] To receive these funds, CAPTA requires states to create laws mandating that certain professionals report child abuse or neglect (suspected or actual) to the family policing system. Subsequent additions to the legislation, from the Comprehensive Addiction and Recovery Act (CARA), also require medical professionals to notify family policing agencies when an infant is born and identified as "substance-affected."

States implement their own reporting requirements to comply with CAPTA.

Those requirements vary from state to state, including definitions for who is a mandated reporter, what constitutes reportable child abuse or neglect, and when medical professionals have to report suspected or actual prenatal substance exposure. States must have procedures for:

- addressing the needs of each newborn identified as "affected by substance abuse or withdrawal symptoms, or a fetal alcohol spectrum disorder";
- notifying child protective services when a newborn has been so identified; and
- ensuring the newborn's safety and well-being following their release from healthcare providers by developing a Plan of Safe Care (POSC).[10]

The POSC is intended to do two things: address the health and treatment needs of the infant and their affected family or caregiver, and monitor whether local entities are delivering appropriate services to the infant and family. Notifying a state agency of a POSC is different from making a child protective services report. The POSC is a tool to ensure family care in support of the infant, and to hold local entities accountable for service provision. A POSC's development should be co-led by the birthing parent and their chosen support network, which may or may not include a medical provider.

Sharing a POSC with the state agency charged with accepting child abuse and neglect complaints is NOT a report of child abuse or neglect, but rather is a notification to the agency that a POSC exists. Ideally, medical providers making a POSC notification should use a different phone number or online system than a state's abuse and neglect reporting portal,[11] but this isn't available in all states. States should use these notifications to track whether local entities are providing referrals to and delivery of appropriate services. Some states even allow a de-identified POSC notification to satisfy CAPTA's data reporting requirements while avoiding unnecessary state intervention. The state laws detailed below determine whether the presence of substances in a newborn, or the diagnosis of certain conditions, requires a child abuse or neglect report *in addition* to a POSC notification.

It's worth noting that state agencies charged with accepting child abuse and neglect reports sometimes develop their own policies and guidance for when a report is required. Some guidance directly follows state law, but other guidance is based on that agency's interpretation of how state law should be implemented. **This agency guidance is <u>not</u> legally binding when it goes beyond the requirements of state law**, but your institution might take agency interpretation into consideration when recommending whether or not to make a report.

Have more questions? Reach out to request technical assistance.

Footnotes for each state indicate where agency guidance goes beyond the requirements of state law. Attorneys, including If/When/How's Technical Assistance team, can help you determine whether your state agency's issued guidance encourages overreporting. **Additionally, some hospital or clinic institutional policies may call for reporting beyond what the state laws below require.**[12] If an institution encourages or requires overreporting, providers can advocate within their institutions to change these harmful policies. Numerous professional codes of ethics encourage medical providers to support their patients in this way.[13] If/When/How may be able to support you in this advocacy.

Important notes on how to use this report

- Generally, requirements for medical professionals to notify or report to a state child protective services agency regarding substance use during pregnancy do not apply in the case of a stillbirth or miscarriage unless the provider has concerns about child abuse and neglect for other children in the home.[14]

- Most state and hospital policies require mandatory reporters to *notify* the state "child protective services" department in certain circumstances involving prenatal substance exposure, including when creating a POSC (POSC notification). This is **NOT** a report of child abuse or neglect unless otherwise indicated in your state's law, detailed below. Sometimes state law may use the word "report" when the practice is more like a notification. We have used context and analysis to determine when a state law using the word "report" should actually be treated as a notification pathway, and not a child abuse or neglect report. It is worth noting that state practices may change county to county. It's also true that some states still use the notification pathway to investigate families, even when providers do not have concerns about a child's safety.

- **This report does not cover general child abuse or neglect reporting statutes** unless they directly address substance use during pregnancy or substance-exposed newborns. While we firmly believe a drug test is not a parenting test, this report explains the laws in each state.

- This report pays particular attention to reporting exemptions for medications for opioid use disorder (MOUDs) like buprenorphine, and to marijuana. This is because in our experience giving technical assistance, these substances are most likely to trigger confusion in medical professionals around reporting.

Important notes on how to use this report

- When this report uses the phrase **"drug screening,"** it means a verbal screening. Some states require drug screening for pregnant patients. This report tries to identify those requirements, but its focus is drug testing and substance use/exposure reports.

- When we use the term **"drug test,"** we are referring to a method of measuring whether a substance or its metabolites are present in a testing source like blood, urine, meconium, or an umbilical cord. This may be a **qualitative test** indicating *whether* a substance is present in a source or not (i.e. a positive or negative result), or a **quantitative test** measuring *how much* of a substance is present in a source (i.e. a numerical result).

No drug test can accurately determine whether a patient is using substances regularly, or at all. The thresholds set for a positive test result are generally not standardized or evidence-based, meaning that the same patient could test positive or negative depending on when or where their test is processed.[15] Drug tests also frequently result in false positives due to legal or prescribed substances. The risk of false positives for birthing patients in particular can be as high as 50%,[16] in part due to meals or treatment provided during a hospital stay[17] that can trigger a positive test result.[18]

- Some states require a blood test for a newborn for the purpose of screening for congenital disease. Sometimes these tests can be refused by a parent. These screening tests are not included in this report.

- Minors who are pregnant, using substances, and still under the care of a parent or guardian (i.e. unemancipated) may trigger child abuse reporting statutes in certain circumstances. Reach out to If/When/How's Technical Assistance team if you have questions about caring for unemancipated minors.

- Many laws and regulations require mandatory reporters to apply a "reasonable person standard" when deciding whether a child abuse or neglect report is required. Where this standard applies to medical professionals, it is asking "what would a reasonable medical provider, who has the same knowledge base and expertise as you, do in this scenario?" It is a highly imperfect attempt at objectivity. Medical providers who need further guidance on this standard can contact If/When/How's Technical Assistance team.

Alabama[19]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance, providers are **NOT** required to report.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn is drug tested and the result is positive,[20] the state may* require a child abuse report.[21]

- *Notable Exceptions
  - Providers do **NOT** need to report use of prescribed medications during pregnancy, including MOUDs like methadone or buprenorphine, when taken as prescribed.[22]
  - Providers do **NOT** need to report use of medical marijuana during pregnancy.[23]
  - Providers do **NOT** need to report use of non-prescription medication during pregnancy when taken as directed by a healthcare provider.[24]

Alaska[25]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance* or alcohol, providers are **NOT** required to report.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers involved in the delivery or care of an infant[26] **must notify** the Alaska Department of Family and Community Services if they determine that an infant has been adversely affected by, or is withdrawing from exposure to, a controlled substance* or alcohol.[27] This is not a child abuse or neglect report.

- ***Notable Exceptions**:
  - Providers are **NOT** required to report use of prescribed medications during pregnancy,[28] including MOUDs like methadone or buprenorphine, when taken as prescribed.

Arizona[29]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance* or alcohol, providers are **NOT** required to report to the Arizona Department of Child Safety.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn tests positive for a substance* listed in section 13-3401[30] or alcohol, providers are **NOT** required to report.
  - Providers **must report** if a newborn is actually affected (not simply exposed, but *medically impacted*) by the presence of alcohol or a substance* listed in section 13-3401.[31]

- ***Notable Exceptions:**
  - Providers do **NOT** need to report use of prescribed medications during pregnancy, including MOUDs like methadone or buprenorphine, when taken as prescribed.[32]
  - Providers do **NOT** need to report use of medical marijuana during pregnancy.[33]

Arkansas[34]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - A positive drug test result for a pregnant person prior to birth does **NOT** trigger a mandatory report.
  - If a pregnant or birthing person tests positive for an unprescribed illegal substance* at the time of birth, **and** knowingly used that substance, providers **must report** child neglect to the Arkansas Division of Child and Family Services (DCFS).[35]

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn tests positive for an unprescribed illegal substance* at the time of birth, providers involved in the delivery or care of infants **must report** to DCFS, provided the substance was "knowingly us[ed]" by the birthing person.[36]

- ***Notable Exceptions:**
  - Providers are **NOT** required to report if the presence of the drug in a positive test is the result of medical treatment for the newborn or birthing person. This means providers are **NOT** required to report a positive test for medicines like buprenorphine for opioid use disorder treatment if taken as recommended. Providers are also **NOT** required to report the use of medical marijuana.[37] However, the presence of these medications or other substances could still require a referral to DCFS.[38] This referral is not a child abuse report under the law.

California[39]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance, providers do **NOT** need to make a report.[40]

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn tests positive for a controlled substance, providers are **NOT** required to make a report.[41]

Colorado[42]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person is drug tested and the result is positive, providers are **NOT** required to report.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers **must report** when:[43]
    - A "child is born affected by alcohol or substance exposure, except when taken as prescribed or recommended and monitored by a licensed health care provider,* **and**
    - [T]he newborn child's health or welfare is threatened by substance use."[44]

- ***Notable Exceptions:**
  - Providers are **NOT** required to report use of prescribed medications during pregnancy, including MOUDs like methadone or buprenorphine, when taken as prescribed.
  - Providers are **NOT** required to report a positive test for any substance unless it is unprescribed/unmonitored AND it impacts the newborn's physical, development, and/or behavior response, AND the newborn's health or welfare is threatened by an ongoing substance use issue.[45]

Connecticut[46]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance, providers are **NOT** required to report.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn tests positive for a controlled substance, providers are **NOT** required to report to the Connecticut Department of Children and Families (DCF). Substance use alone is not reportable child abuse or neglect.
  - Providers involved in the delivery or care of a newborn **must notify** DCF online if, in their medical judgment, the newborn exhibits physical, neurological, or behavioral symptoms which indicate
    - prenatal substance exposure,
    - withdrawal symptoms due to prenatal substance exposure or
    - fetal alcohol spectrum disorder.[47]
    - Notifications will not trigger DCF involvement unless the provider notes a suspicion of abuse or neglect.[48]

Delaware[49]

- Pregnant / Birthing Person
  - Providers are **NOT** required by law to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.[50]
  - If a pregnant or birthing person[51] tests positive for a controlled substance, providers are **NOT** required by state law to report.[52]

- Newborn
  - Providers are **NOT** required by law to drug test a newborn. However, see the hospital testing policy above.
  - Providers **must notify** the Delaware Division of Family Services (DFS) if they identify an infant as being affected by substance abuse,* withdrawal symptoms, or a fetal alcohol spectrum disorder.[53] This is not a child abuse or neglect report.

- ***Notable Exceptions**:
  - Providers do **NOT** need to notify for use of prescribed medications during pregnancy, including MOUDs like methadone or buprenorphine, when taken as prescribed.[54]
  - Providers do **NOT** need to notify for use of medical marijuana during pregnancy, when used as directed.[55]

Florida[56]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance* or alcohol, providers are NOT required to report to the Florida Department of Children and Families (DCF).

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers **must report** to DCF if a newborn is drug tested and the result is positive for controlled substances* or alcohol.[57]

- ***Notable Exceptions:**
  - Providers do **NOT** need to report use of prescribed medications during pregnancy, including MOUDs like methadone or buprenorphine, when taken as prescribed.[58]
  - Providers do **NOT** need to report use of medical marijuana during pregnancy.[59]

Georgia[60]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance* or alcohol, providers are **NOT** required to report to the Georgia Division of Family and Children Services (DFCS).

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers **must report** to DFCS if the newborn is drug tested and the result is positive for controlled substances* or alcohol.[61]
  - Providers **must report** if an infant displays symptoms of withdrawal[62] or there are "medically diagnosed and harmful effects in a newborn's physical appearance or functioning."[63]

- ***Notable Exceptions**:
  - Providers do **NOT** need to report use of prescribed medications during pregnancy, including MOUDs like methadone or buprenorphine, when taken as prescribed.[64]
  - Providers do **NOT** need to report use of marijuana during pregnancy.[65]

Hawai'i[66]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance or alcohol, providers are **NOT** required to report to Hawai'i Child Welfare Services.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers do **NOT** need to report a positive drug test or indication that a newborn is substance-affected.

Idaho[67]

- Pregnant / Birthing Person
  - Providers are **NOT** required by law to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a legal or illegal substance, providers are **NOT** required to report to the Idaho Department of Health & Family Welfare (DHFW).

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn tests positive for a controlled substance, including marijuana, providers are **NOT** required to report to DHFW for this reason alone.[68]

Illinois[69]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.[70]
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance* or alcohol, providers are **NOT** required to report to the Illinois Department of Children and Families (DCF).

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers **must report** to DCF if a newborn is drug tested *and* their "blood, urine, or meconium contains any amount of a controlled substance[*]...."[71]
  - Providers **must report** to DCF if a newborn is diagnosed at birth with Fetal Alcohol Syndrome or drug withdrawal "caused by the [birth parent]'s addiction."[72]

- ***Notable Exceptions**:
  - Providers do **NOT** need to report use of prescribed medications during pregnancy, including MOUDs like methadone or buprenorphine, when taken as prescribed.[73]
  - Providers do **NOT** need to report use of cannabis during pregnancy, as it is not a controlled substance under Illinois law.[74]

Indiana[75]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance or legend drug,* providers are **NOT** required to **report**.[76]

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn tests positive for a controlled substance or legend drug,* providers are **NOT** required to report **unless** the newborn needs care that they are not getting or are unlikely to get without court intervention.[77]

- ***Notable Exceptions**:
  - Providers are **NOT** required to report use of prescribed medications during pregnancy or at birth, including MOUDs like methadone or buprenorphine, when taken as prescribed.[78]

Iowa[79]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a legal or illegal substance, providers are **NOT** required to report to the Iowa Department of Health & Human Services (DHHS).

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn tests positive for a non-prescribed "illegal drug," providers **must report** to DHHS.[80] DHHS will investigate the family.
  - If a mandated reporter "involved in the delivery or care of a newborn or infant discovers … physical or behavioral symptoms that are consistent with the effects of prenatal drug exposure or a fetal alcohol spectrum disorder," the provider **must report** to DHHS.[81] This exposure need not be limited to "illegal drugs," but covers all substances.[82] DHHS will investigate the family.

Kansas[83]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance or alcohol, providers are **NOT** required to report to the Kansas Department for Children and Families.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn tests positive for a substance or otherwise appears substance-affected, providers do **NOT** need to report.[84]

Kentucky[85]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers **must** first tell the pregnant or birthing person the purpose of the test.[86] Providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance,* providers are **NOT** required to report.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn tests positive for a controlled substance,* providers are **NOT** required to report **unless** they identify child abuse or neglect.[87] The Kentucky Child Protection Branch (CPB) will investigate the family.
  - Providers **must notify** CPB if they determine that a newborn is affected by withdrawal due to prenatal substance use or a fetal alcohol spectrum disorder.[88] This is not a child abuse report.[89]

- ***Notable Exceptions**:
  - Providers are **NOT** required to report use of prescribed medications during pregnancy, including MOUDs like methadone or buprenorphine, when taken as prescribed.[90]
  - Providers are **NOT** required to report use of medicinal cannabis during pregnancy. Medicinal cannabis is not a controlled substance because it is not legally considered marijuana in Kentucky.[91]

Lousiana[92]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent prior to drug testing a pregnant or birthing person.
  - If a pregnant or birthing person tests positive for a controlled substance or alcohol, providers are **NOT** required to report.

- Newborn
  - Providers are **NOT usually** required by law to drug test a newborn less than 31 days old.
  - However, *physicians* **must** drug test a newborn if the physician has "cause to believe" that the newborn was exposed *in utero* to an unlawfully used controlled substance.*[93]
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - *Physicians* **must** make a neglect[94] report to the Louisiana Department of Child and Family Services (DCFS) if a newborn
    - tests positive for an unlawfully used controlled substance,*[95] or
    - exhibits symptoms of withdrawal or "other observable and harmful effects in his physical appearance or functioning," which the physician has "cause to believe" are
      - due to "chronic or severe alcohol use" by the birthing parent during pregnancy or
      - symptoms of a fetal alcohol spectrum disorder.[96]

- ***Notable Exceptions**:
  - Providers do **NOT generally** need to report use of prescribed medications, which include medications for opioid use disorder (MOUDs) like methadone or buprenorphine, as well as medical marijuana.[97]
    - However, a *physician* **must notify** DCFS if a newborn exhibits symptoms of withdrawal or "other observable and harmful effects in [their] physical appearance or functioning" that the physician believes are due to the birthing parent's use of a prescribed controlled substance during pregnancy.[98] The notification **must be on the Department form** titled "Physician Notification of Substance Exposed Newborns; No Prenatal Neglect Suspected," *not* through a call to DCFS' Child Protection Hotline.[99]

Maine[100]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance, providers are **NOT** required to report.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - A provider involved in the delivery or care of an infant **must notify** the Maine Department of Health and Human Services if they identify the infant as
    - having been born affected by substance abuse,
    - having withdrawal symptoms due to prenatal drug exposure, or
    - having a fetal alcohol spectrum disorder.[101]

Maryland[102]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - Providers do **NOT** need to report if a pregnant or birthing person merely tests positive for a controlled drug at the time of delivery,[103] as substance use during pregnancy does not constitute child abuse or neglect.[104]

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers involved in the delivery or care of a newborn under 30 days old **must report*** to a local department of social services if the newborn
    - tests positive at the time of delivery for a controlled* drug that was not prescribed,
    - is affected by or has withdrawal symptoms of prenatal exposure to a controlled drug, or
    - is affected by a fetal alcohol spectrum disorder.[105]
  - After a provider makes a report, the department will investigate the family.[106]

- ***Notable Exceptions**:
  - A report is **NOT** required if a provider knows that
    - another individual within the institution has already made a report, **OR**
    - at the time of delivery, the birthing parent was using a controlled substance as currently prescribed, and the newborn does not display effects of withdrawal, a fetal alcohol spectrum disorder, or substance abuse.[107]

Massachusetts[108]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance or alcohol, providers are **NOT** required to report child abuse or neglect.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn is drug tested and the result is positive, providers are **NOT** required to report.[109]

Michigan[110]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance,* providers are **NOT** required to report.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers **must report** if, based on a newborn's symptoms, they know or have "reasonable cause to suspect" that the newborn has "any amount of alcohol, a controlled substance, or a metabolite of a controlled substance" in their body.*[111]

- ***Notable Exceptions**:
  - Providers are **NOT** required to report exposures to substances attributable to medical treatment.[112] This includes medications for opioid use disorder (MOUDs) such as methadone or buprenorphine, and medical marijuana, when taken as prescribed.

Minnesota[113]

- Pregnant / Birthing Person
  - *Physicians* **must report** a birthing parent's positive test[114] to the Minnesota Department of Health.[115] All providers **must report** a birthing parent's positive test at the time of delivery. A report of substance use while pregnant is not a child abuse or neglect report, but a report of a positive test during delivery or after birth does constitute a neglect report.[116]
  - A provider involved in the healthcare of a person they know or have "reason to believe" used a controlled substance recreationally or engaged in "habitual or excessive" alcohol use while pregnant **must report *only if*** (1) the person does not continue to receive prenatal, postpartum, newborn, or other healthcare, **and** (2) the provider has been unable to get in contact with the person.[117]
  - Providers are **NOT** required to drug test or report a pregnant or birthing person who is not under their care.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent prior to drug testing a pregnant or birthing person.
  - Providers are not required to investigate a parent in their care. However, *physicians* **must** test a birthing person in their care with an obstetric complication that medically indicates they used a controlled substance recreationally while pregnant.[118]

- Newborn / Child
  - Providers are not required to investigate a newborn in their care. However, *physicians* **must** test a newborn in their care if a medical assessment indicates that the birthing parent used a controlled substance recreationally while pregnant.[119]
  - A provider is **NOT** required to drug test or report an infant who was not born under their care.
  - Providers **must report** if a newborn has a positive drug test,* has withdrawal symptoms at birth, experiences "medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance," or has a fetal alcohol spectrum disorder.[120]

- ***Notable Exceptions**:
  - Providers are **NOT** required to report use of prescribed medications during pregnancy or at birth, including MOUDs like methadone or buprenorphine, when taken as prescribed.

Mississippi[121]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a legal or illegal substance, providers are **NOT** required to make a report.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn tests positive for substances or is born and identified as substance-affected, providers are **NOT** required to report.[121]

Missouri[123]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a substance, providers are **NOT** required to report.[124]

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn tests positive for a substance, providers are **NOT** required to report.
  - Providers **must refer*** a family to the Missouri Children's Division when a newborn is identified as affected by:
    - substance abuse,
    - withdrawal symptoms from prenatal controlled substance exposure, or
    - a fetal alcohol spectrum disorder.[125]
- *Referrals do not constitute child abuse or neglect reports.[126]

Montana[127]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance* or alcohol, providers are **NOT** required to report to the Montana Department of Public Health and Human Services (DPHHS).

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers **must report** to DPHHS when they know an infant is "affected by[128] a dangerous* drug."[129]

- ***Notable Exceptions**:
  - Providers are **NOT** required to report use of prescribed methadone or buprenorphine, when taken as prescribed because[130] FDA-approved drugs are exempt from the reporting requirement.[131]

Nebraska[132]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a legal or illegal substance, providers are **NOT** required to report.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - A positive drug test or indication that a newborn is substance-affected does **NOT** trigger a mandatory report.[133]

Nevada[134]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person. If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance or alcohol, providers are **NOT** required to report to the Nevada Division of Child and Family Services (DCFS).

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - A provider who delivered or is providing medical services to a newborn **must notify** DCFS if they know or have reasonable cause to believe that the newborn
    - has been affected by a fetal alcohol spectrum disorder or prenatal substance exposure, or
    - has withdrawal symptoms from prenatal substance exposure.[135] This is not a child abuse or neglect report.[136]

New Hampshire[137]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a legal or illegal substance, providers are **NOT** required to report.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn is drug tested and the result is positive, a child abuse or neglect report is **NOT** required unless the provider determines that the child's symptoms otherwise meet the definition of child abuse.[138]

New Jersey[139]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - A pregnant or birthing person's positive result after a qualitative toxicology screen (a "positive" result, rather than a numerical one) does not trigger a notification. Instead, the provider **must perform** more reliable confirmation-level testing.[140]
  - Providers at licensed birth centers[141] **must notify** the New Jersey Department of Children and Families (DCF) if a pregnant or birthing person's confirmation-level testing confirms use of a controlled substance while pregnant.[142] This notification is de-identified and not a child abuse report[143] unless the provider alleges additional factors indicating abuse.[144]

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - A newborn's positive result after a qualitative toxicology screen (a "positive" result, rather than a numerical one) does not trigger a notification. Instead, the provider **must perform** more reliable confirmation-level testing.[145]
  - Providers at licensed birth centers[146] **must notify** DCF if a newborn's confirmation-level testing confirms exposure to a controlled substance before birth.[147] This notification is de-identified and not a child abuse report[148] unless the provider alleges additional factors indicating abuse.[149]
  - Providers at licensed birth centers **must notify** DCF when an infant is born "substance-affected," meaning
    - exposed to alcohol or a controlled substance before birth (confirmed by "confirmation-level" toxicology testing or other evidence),
    - displaying symptoms of withdrawal from controlled substance exposure (confirmed by "confirmation-level" toxicology testing or other evidence), or
    - diagnosed after birth with, or designated as at risk of, a fetal alcohol spectrum disorder.[150]

New Mexico[151]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing. Providers **must** "use an evidence-based verbal screening brief intervention with referral to treatment (SBIRT) model at prenatal medical visits and during delivery hospitalization to identify substance use in pregnancy and to identify the appropriate level of treatment."[152]
  - If a pregnant or birthing person tests positive for a legal or illegal substance, providers are **NOT** required to report.[153]
  - Providers **must** develop a POSC if they identify a pregnant or birthing person with substance use disorder.[154]

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Healthcare providers **must** use an evidence-based tool to evaluate infants born affected by substance use for withdrawal symptoms.[155]
  - A newborn is considered substance-exposed when
    - they have "exhibited physical, neurological or behavioral symptoms consistent with prenatal drug exposure, withdrawal symptoms from prenatal drug exposure, or fetal alcohol spectrum disorder."[156]
    - their birth parent has a diagnosis of substance use disorder, alcohol use disorder, or opioid use disorder even if that parent is receiving treatment.[157]
  - The clinician or facility that identifies a newborn as substance-exposed **must** create a POSC if the birthing parent does not already have one.[158] When a family is "not compliant" with a POSC, providers **must refer** the family to the Children, Youth, and Families Department (CYFD) "to request a family assessment."[159] This is not a child abuse report, but the family will be investigated.

New Mexico

- A positive drug test or indication that a newborn is substance-exposed **may require a report**, depending on the substance.[160] In July 2025, the governor's office and CYFD issued a directive which requires all birthing hospitals in the state to report fentanyl and methamphetamine-exposed newborns as well as those with a fetal alcohol spectrum disorder to CYFD before the newborn leaves the hospital.[161] CYFD will then take the infant into custody for 72 hours while they determine whether the infant will remain in state custody. The directive also calls for the filing of a child abuse/neglect petition for each infant. Hospitals have been told to implement policies and procedures in line with this directive.
- In spite of this new requirement, New Mexico law and courts have repeatedly stated that substance use or addiction during pregnancy alone do not indicate or prove child neglect.[162]

New York[163]

- Pregnant / Birthing Person
  - A drug test on a pregnant or birthing person is **NOT** required by law.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing. Providers in New York City hospitals **must** get written consent before drug testing pregnant patients.[164]
  - If a pregnant or birthing person tests positive for a controlled substance or alcohol, providers are **NOT** required to report to the New York Office of Children and Family Services.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If a newborn tests positive for a substance, providers are **NOT** required to report.[165]

North Carolina[166]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance or alcohol, providers are **NOT** required to report.[167]

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers do **NOT** need to report if a newborn tests positive for a substance or otherwise appears to be substance-affected.[168]

North Dakota[169]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If a pregnant or birthing person tests positive for a substance, providers are **NOT**[170] required to report the results to the North Dakota Department of Health and Human Services (DHHS).[171]
  - However, because the state has not updated its definition of neglect, a report may still be required by law when a provider knows or believes that a patient is pregnant and "has engaged in the abuse of a controlled substance or alcohol misuse during the pregnancy." The provider **must report** the circumstances to DHHS.[172]
    - A report is **NOT** required if the patient agrees to enter treatment with a licensed program. The provider **must report** if they know of the patient's "failure to complete voluntary treatment, continued use of controlled substance for nonmedical purpose, or failure to follow treatment recommendations."[173]

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn tests positive for a substance, providers are **NOT** required to report.[174]

Ohio[175]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.[176]
  - If a pregnant or birthing person tests positive for a legal or illegal substance, providers are **NOT** required to report.[177]

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a drug test for a newborn is positive, then the provider **must report*** to the Ohio Department of Job and Family Services.[178]

- ***Notable Exceptions**
  - Providers are **NOT** required to report a newborn's positive drug test that results from the birthing person's use of methadone, buprenorphine, or other prescription medications if taken as prescribed.[179]
  - Providers are **NOT** required to report a newborn's positive drug test that results from the birthing person's cannabis use unless the pregnant person is under 21.[180]

Oklahoma[181]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance,* providers are **NOT** required to report.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers involved in prenatal care or the delivery or care of an infant **must report** if a newborn (1) tests positive for a controlled substance* or alcohol, or (2) is diagnosed with Neonatal Abstinence Syndrome or a fetal alcohol spectrum disorder.[182] The Oklahoma Department of Human Services will investigate the family.

- *This **includes** prescribed medications like methadone, buprenorphine, and cannabis.[183]

Oregon[184]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance or alcohol, providers are **NOT** required to report to the Oregon Department of Human Services.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn tests positive for a substance, providers are **NOT** required to report.[185]

Pennslyvania[186]

- Pregnant or Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a pregnant or birthing person tests positive for a legal or illegal substance, providers are **NOT** required to report. Substance use during pregnancy does not constitute child abuse or neglect.[187]

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - A mandated reporter **must notify** the Pennsylvania Department of Human Services of the Commonwealth **only if** a newborn is affected by "substance use or withdrawal symptoms resulting from prenatal drug exposure; or a Fetal Alcohol Spectrum Disorder."[188] This does not constitute a child abuse or neglect report.
  - This notification requirement **does include** withdrawal symptoms resulting from prescription medication, such as methadone.

Rhode Island[189]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance or alcohol, providers are **NOT** required to report.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn tests positive for a controlled substance or alcohol, providers are **NOT** required to report.[190]
  - Providers involved in the delivery or care of an infant born with symptoms of (1) withdrawal from prenatal drug exposure or (2) a fetal alcohol spectrum disorder **must report**.[191]

South Carolina[192]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - Providers **must report** to the South Carolina Department of Social Services (DSS) if the birthing parent tests positive at the time of birth[193] for a controlled substance or a metabolite thereof.*
  - South Carolina courts have interpreted criminal child abuse laws to apply to substance use during pregnancy,[194] but have also acknowledged the weakness of the connection between substance use during pregnancy and the degree of harm to an infant, particularly as compared to other medical realities associated with poverty, like poor nutrition.[195]

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers **must report** to DSS if the newborn
    - tests positive at birth for the presence of a controlled substance or a metabolite thereof,* or
    - is diagnosed with Fetal Alcohol Syndrome.[196]

- ***Notable Exceptions**:
  - Providers are **NOT** required to report use of prescribed medications, including MOUDs like methadone or buprenorphine, when taken as prescribed.

South Dakota[197]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a legal or illegal substance, a report is **NOT** required.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers **must report** to the South Dakota Division of Child Protection Services **only if** an infant "was subject to prenatal exposure to *abusive* use of alcohol, marijuana, or any controlled drug or substance not lawfully prescribed."*[198]

- ***Notable Exceptions**
  - Providers are **NOT** required to report if the presence of the drug is the result of medical treatment for the newborn or birthing parent, so it would not include medicines like methadone or buprenorphine for opioid use disorder treatment if taken as prescribed.

Tennessee[199]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance* or alcohol, providers are **NOT** required to report.[200]

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers **must report** if a newborn tests positive for a controlled substance.*[201] The Tennessee Department of Children's Services will investigate the family.

- ***Notable Exceptions**:
  - Providers are **NOT** required to report a newborn's positive test that results from the birthing person's use of prescribed medications during pregnancy, including MOUDs like methadone, buprenorphine, or medical marijuana, when taken as prescribed.[202]
  - Providers are **NOT** required to report a newborn's positive test that results from the birthing person's use of lawful, uncontrolled substances, including, during pregnancy.[203]

Texas[204]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant[1] or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance* or alcohol, providers are **NOT** required to report to the Texas Department of Family and Protective Services (DFPS).

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers must report to DFPS if the birthing parent knew or should have known of the pregnancy, **and**
    - the newborn is diagnosed with Fetal Alcohol Syndrome, Fetal Alcohol Effect, or Neonatal Abstinence Syndrome;[205]
    - the "newborn was harmed from in utero exposure to alcohol or a controlled substance;"[206] or
    - the birthing parent's substance use* during pregnancy "exposed the infant to loss or injury or endangered the infant's emotional or physical health."[207]
      - Actual injury to an infant is not required for a report, but medical providers have discretion to determine whether the substance use during pregnancy was substantial or severe enough to endanger a born infant.[208]

- ***Notable Exceptions**:
  - Providers are **NOT** required to report use of prescribed medications, including MOUDs like methadone or buprenorphine, when taken as prescribed.[209]

Utah[210]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant[11] or birthing person prior to drug testing.
  - If a pregnant person tests positive for a legal or illegal substance, providers are **NOT** required to report.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - A healthcare provider "who attends the birth of a newborn child or cares for a newborn child" **must report** to the Utah Division of Child and Family Services (DCFS) as soon as possible **only if** they determine a newborn:
    - is suffering adverse effects from "substance abuse during pregnancy,"
    - has fetal alcohol syndrome (or fetal spectrum disorder), or
    - demonstrates drug or alcohol withdrawal symptoms.*[211]
  - That healthcare provider also **must report** to DCFS if "the parent of the newborn child or a person responsible for the child's care demonstrates functional impairment or an inability to care for the child as a result of the parent's or person's substance abuse."[212]

- ***Notable Exceptions**
  - Providers are **NOT** required to report if the newborn's withdrawal symptoms are as a result of the pregnant parent's use of prescribed medications used as prescribed, such as methadone or buprenorphine.[213]

Vermont[214]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance, providers are **NOT** required to report.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers **must notify** the Vermont Department for Children and Families (DCF) at discharge if a newborn tests positive for a controlled substance.*
  - Providers **must report** if, at the time of delivery, a newborn
    - exhibits symptoms of withdrawal due to the birthing person's use of an unlawfully used controlled substance,* or
    - exhibits symptoms of a fetal alcohol spectrum disorder.[215]

- ***Notable Exceptions**:
  - Providers are **NOT** required to report a newborn's positive test that results from the birthing person's use of prescribed medications during pregnancy, including MOUDs like methadone or buprenorphine, when taken as prescribed.[216]
  - Providers are **NOT** required to report a newborn's positive test that results from the birthing person's use of medical or recreational marijuana during pregnancy.[217]
  - Providers are **NOT** required to either report or make a notification about the birthing person's use of alcohol in the absence of fetal alcohol spectrum disorder symptoms.[218]

Virginia[219]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person. However, providers who deliver prenatal care **must** "implement a medical history protocol for screening pregnant women for substance abuse to determine the need for a specific substance abuse evaluation."[220]
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance* or alcohol, providers are **NOT** required to report to the Virginia State Department of Social Services (DSS).

- Newborn / Child
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - A provider **must report** to DSS when:
    - Within 6 weeks of birth, the provider finds that a child was born "affected by substance abuse*[221] or [is] experiencing withdrawal symptoms resulting from in utero drug exposure," OR
    - Within 4 years of birth, the provider finds that a child has an illness, disease, or condition attributable to "maternal abuse of a controlled substance during pregnancy" or newly diagnoses a child with a fetal alcohol spectrum disorder.[222]
    - Though this report is not a report of child abuse or neglect, it may trigger an investigation by DSS.[223]

- ***Notable Exceptions**:
  - Providers are **NOT** required to report use of prescribed medications, including MOUDs like methadone or buprenorphine, when taken as prescribed.[224]

Washington[225]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a legal or illegal substance, providers are **NOT** required to report.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn tests positive for a controlled substance or is substance affected, providers are **NOT** required to report.[226]

Washington D.C. (District of Columbia)[227]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.
  - If a pregnant or birthing person tests positive for a controlled substance* or alcohol, providers are **NOT** required to report to Washington D.C. Child and Family Services Agency (CFSA).

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers **must report** to CFSA if an infant under one year old is diagnosed with a fetal alcohol spectrum disorder.[228]
  - Providers **must report** neglect to CFSA if an infant is "born addicted or dependent on a controlled substance or has a significant presence of a controlled substance"* in their body at birth.[229]

- ***Notable Exceptions**:
  - Providers are **NOT** required to report use of prescribed medications, including MOUDs like methadone or buprenorphine, when taken as prescribed.[230]

West Virginia[231]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the pregnant or birthing person prior to drug testing.[11]
  - If a pregnant or birthing person tests positive for a legal or illegal substance, providers are **NOT** required to report.

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - If a newborn tests positive for an "illegal drug,"* a provider **must report** this as child abuse to the West Virginia Department of Health and Human Resources, who will then investigate the family.[232]

- ***Notable Exceptions**
  - Providers are **NOT** required to report a newborn's positive test that results from a pregnant person's use of prescribed medications such as medical marijuana, methadone, or buprenorphine if taken as prescribed.

Wisconsin[233]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - If screening indicates the need for a drug test, providers **must** get informed consent from the pregnant or birthing person prior to drug testing.[234]
  - If a pregnant person tests positive for a controlled substance* or alcohol, providers are **NOT** required to report.[235]

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - Providers **must report** if a newborn tests positive for a controlled substance* or alcohol **and**
    - is diagnosed with a fetal alcohol spectrum disorder;[236] or
    - the birthing person's "severe" abuse of controlled substances or alcohol caused "serious" physical harm to a fetus or risked "serious" physical harm to the fetus after birth.[237]

- ***Notable Exceptions**:
  - Providers are **NOT** required to report positive tests related to the use of prescribed medications, including MOUDs like methadone, buprenorphine, or medical cannabis, when taken as prescribed.

Wyoming[238]

- Pregnant / Birthing Person
  - Providers are **NOT** required to drug test a pregnant or birthing person.
  - However, state law requires universal drug screening.[239]
  - If screening indicates the need for a drug test, providers should ask for and get informed consent prior to drug testing a pregnant or birthing person.
  - If a pregnant or birthing person tests positive for drugs or alcohol, including misused prescription or over-the-counter medication, providers **must** make a notification to the Wyoming Department of Family Services (DFS).[240]

- Newborn
  - Providers are **NOT** required to drug test a newborn.
  - If screening indicates the need for a drug test, providers should ask for and get informed consent from the birthing person prior to drug testing their newborn.
  - A positive drug test or indication a newborn is substance-affected does **NOT** trigger a mandatory report, but providers **must notify** DFS.[241]

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Citations

1. The reporting requirements described in this report are limited to requirements around prenatal substance exposure, and thus are generally limited to medical providers who work directly with pregnant or birthing patients and newborns. Some requirements only apply to providers who assisted with the delivery of a newborn.
2. Minnesota.
3. Louisiana and Minnesota.
4. For in-depth assistance around your state's reporting laws and whether they apply to your profession, contact If/When/How at **ifwhenhow.org/learn/technical-assistance** or **technicalassistance@ifwhenhow.org**. More resources for medical providers are available at **ifwhenhow.org/get-involved/for-health-care-providers**.
5. We generally refer to the "child welfare system" or "child protective services system" as the "family policing system" because these systems involve regulation, surveillance, and family separation in ways that often do not protect children or improve their welfare. *See generally* Dorothy E. Roberts, *Torn Apart* (2022); Abie Green et al., CRT2 Studio for Law & Culture, Colum. L. Sch., *CRT and Family Regulation System: Toward Abolition* (2021), **https://perma.cc/ERK3-7MCB**; Ava Cilia, *The Family Regulation System: Why Those Committed to Racial Justice Must Interrogate It*, Harv. C.R.—C.L. L. Rev. (Feb. 17, 2021), **https://perma.cc/HY2W-7GBJ**.
6. Innovating Education in Reproductive Health, *Doing Right at Birth* (2022), **https://www.innovating-education.org/doing-right-at-birth/**; *see also* Roberts et al., *Training health professionals to reduce overreporting of people who use drugs to child welfare*, Addiction Sci. Clinical Practice 19, 32 (2024), **https://perma.cc/29HG-ZCPW**.

Citations

7. *See* Jill Castellano & Shoshana Walter, Marshall Project, *Moms of Black Babies More Likely to Be Flagged to Police Over Alleged Pregnancy Drug Use* (July 16, 2026), **https://perma.cc/4VTW-BPUF** ("Black babies are around two and a half times more likely than White babies to be flagged to law enforcement over claims of substance exposure in the womb… Black women are more likely than White women to be drug tested at childbirth and reported to child welfare authorities, more likely to be investigated and more likely to be separated from their children….").
8. *See, e.g.*, Imani Worthy, Tracy Serdjenian & Jeanette Vega Brown, *Trapped in the Web of Family Policing: The Harms of Mandated Reporting and the Need for Parent-Led Approaches to Safe, Thriving Families*, FIJ Quarterly 39–49 (Spring 2022); *see generally* Dorothy E. Roberts, *Torn Apart* (2022).
9. *See* Pregnancy Just., *Understanding CAPTA and State Obligations* (2020), **https://perma.cc/L7ST-CQAM**.
10. Child Abuse Prevention and Treatment Act, 42 U.S.C. § 5106a(b)(2)(ii-iii) (2019).
11. Colo. Coal. to Protect Child. & Fam. Rights, *Model flowchart for a CAPTA compliant notification*, **https://perma.cc/8Y6B-5SK8** (last visited Dec. 10, 2025).
12. The role of a hospital or clinic attorney is to protect the hospital or clinic from liability. This may sometimes lead to more conservative interpretations of the law than what you find here. We believe that hospital and clinic providers can both follow the law and protect themselves from liability. If you would like support in advocating internally to change your institutional policies, you can contact If/When/How's Technical Assistance team.

Citations

13. *See, e.g.*, Nat'l Ass'n of Soc. Workers, *Code of Ethics* §§ 3.07(d), .09(b)-(d) (2021), **https://perma.cc/7MCQ-5LC5** ("Social workers should work to improve employing agencies' policies and procedures and … should not allow an employing organization's policies, procedures, regulations, or administrative orders to interfere with their ethical practice of social work."); Am. Nurses Ass'n, *Code of Ethics for Nurses* § 3.5 (2025), **https://perma.cc/43DD-3RY3** ("When practices threaten the welfare of the patient, nurses express their concern to the responsible manager or administrator and escalate as indicated."); Am. Nurses Ass'n, *Code of Ethics for Nurses* § 4.3 (2025), **https://perma.cc/QAR9-E882** ("[W]hen ethical problems have their roots in social disadvantage or political movements, nurses use their education and knowledge to influence change through professional collaboration and advocacy."); Int'l Council of Nurses, *The ICN Code of Ethics for Nurses* §§ 2.10, 3.5, 4.5 (2021), **https://perma.cc/5LN4-NSTD** ("Nurses contribute to positive and ethical organisational environments and challenge unethical practices…."); Am. Med. Ass'n, *Code of Medical Ethics* § 11.2.7 (2025), **https://perma.cc/L8NR-3RMU** ("Within their institutions, … physicians should collaborate with colleagues to promote change. They should … [i]dentify institutional policies and practices that perpetuate or create barriers to equitable care [and] [p]articipate in designing and supporting well-considered strategies for change to ensure equitable care for all."); Am. Pub. Health Ass'n, *Public Health Code of Ethics* §§ 1, 2.C (2019), **https://perma.cc/BMJ8-BLAW** ("More direct systemic, institutional … influences shape the ethical conduct of public health practitioners. These factors must be addressed head on and met with strategic efforts at organizational change…."); NAADAC, Ass'n for Addiction Professionals, *Code of Ethics* § III-48 (2025), **https://perma.cc/84KH-SZV7** ("Addiction professionals who become aware of inappropriate, illegal, discriminatory, and/or unethical policies, procedures and practices at their agency, organization, or practice shall alert their employers. When there is potential for harm to clients…, providers shall seek supervision and/or consultation to determine appropriate next steps and further action.").

14. This is because the general legal justification for child abuse/neglect notification and reporting requirements related to substance use during pregnancy does not support a report/notification. Generally, the legislative purpose is both child protection and intervention in the form of services for the family regarding substance use. In the case of a stillbirth or miscarriage, there is no legal "child" under the jurisdiction of the child protective services agency in the contemplated report unless the parental substance use itself is triggering a child abuse/neglect report for that parent's living children. If substance use is a contributing factor to a stillbirth, the appropriate professional may include this in the fetal death report. Providers who are uncertain about whether their state's child abuse/neglect notification or reporting requirement applies to a miscarriage or stillbirth can reach out to If/When/How's Technical Assistance team.

Citations

15. *See generally* Alice Hines, *Her Parenting Time Was Restricted After a Positive Drug Test. By Federal Standards, It Would've Been Negative*, ProPublica (Jan. 6, 2026), **https://perma.cc/GV7F-X2B5** ("Drug test results are often based on discretionary standards. The level of drugs at which a test is considered positive varies from test to test and lab to lab… Child welfare systems' thresholds for positives vary widely. One state's level is so low, an Air Force pilot can fly with up to 400 times more opiates in their system.").
16. Jill Castellano & Shoshana Walter, Marshall Project, *How Often Does Child Welfare Call Police in Your State for Positive Drug Tests at Birth?* (Feb. 18, 2026), **https://www.themarshallproject.org/2026/02/18/pregnancy-drugs-law-enforcement-referral-data** ("[A]llegations [of substance use during pregnancy] are often based on unreliable drug testing at childbirth, which can return false positives as much as half the time. Claims of pregnancy drug use led new mothers to be interrogated in their hospital rooms, arrested by police and charged with offenses that carry sentences of up to 10 years in prison. Police removed newborns from their parents' custody due to false positives triggered by prescription medications, common foods like poppy seeds and legal CBD gummies.").
17. Shoshana Walter, Marshall Project, *Hospitals Gave Patients Meds During Childbirth, Then Reported Them For Positive Drug Tests* (Dec. 11, 2024), **https://perma.cc/YV2E-ZG3C** ("[H]ospitals are dispensing medications to patients in labor, only to report them to child welfare authorities when they or their newborns test positive for those very same substances on subsequent drug tests… The positive tests are triggered by medications routinely prescribed to millions of birthing patients in the U.S. every year. The drugs include morphine or fentanyl for epidurals or other pain relief, anxiety medications, and two different blood pressure meds prescribed for C-sections.").
18. For more information on the science of drug testing, see Pregnancy Justice & Doing Right By Birth's guide *Drug Testing in Pregnancy and Parenting Part I: The Scientific Basics* at **perma.cc/73MQ-T5FE**.
19. Ala. Code §§ 26-14-3 (mandatory reporting law); 26-14-1 (defining abuse and neglect).
20. Ala. Code § 26-15-3.2. Alabama has a chemical endangerment law, and the Alabama Supreme Court found that substance use by a pregnant person is a crime under this law. Alabama Code § 26-15-3.3 was added in 2016, which exempts a pregnant person from being prosecuted and exempts providers from needing to report a substance exposed infant, if exposure was to a prescription medication taken as prescribed or to a non-prescription medication taken as directed by an authorized healthcare provider.

Citations

21. Ala. Code § 26-14-1. Under the state's reporting statute definition of child abuse, there is no mention of substance exposure. Because this law governs provider responsibilities, we read it to mean that providers are not required to report substance exposure as child abuse under state law. This does not, however, obviate the need for a POSC notification to the state's child protective services agency *when the newborn is identified as substance-affected*. Because it is the policy of Alabama's child protective services agency to consider a positive drug test alone to indicate child abuse, they will likely take the provider's POSC notification and turn it into a child abuse charge. *See* Ala. Child Protective Servs., *Child Abuse/Neglect (CA/N) Allegations and Definitions* (Sept. 2023), **https://perma.cc/Y6PY-7QH3**. Ala. Admin. Code r. 660-5-34-.02(3)(a)(10); *see also* Mayo Clinic, *Fetal alcohol syndrome* (June 13, 2024) ("Fetal alcohol syndrome is on the severe end of fetal alcohol spectrum disorders (FASD).").
22. Alabama Code § 26-15-3.3 was added in 2016, which exempts a pregnant person from being prosecuted and exempts providers from needing to report a substance exposed infant, if exposure was to a prescription medication taken as prescribed or to a non-prescription medication taken as directed by an authorized healthcare provider.
23. Ala. Code § 26-15-3.3.
24. Ala. Code § 26-15-3.3.
25. Alaska Stat. § 47.17.020.
26. "Infant" means "a child who is less than 12 months of age." Alaska Stat. § 47.17.024(b)(2).
27. Alaska Stat. § 47.17.024.
28. Alaska Stat. § 47.17.024(b)(1) (defining "controlled substance").
29. Ariz. Rev. Stat. § 13-3620(E)
30. Ariz. Rev. Stat. § 13-3401, **https://perma.cc/C2VC-RC4G**.
31. Ariz. Rev. Stat. § 13-3401, **https://perma.cc/C2VC-RC4G**.
32. Ariz. Rev. Stat. § 8-201(25)(c).
33. *See Ridgell v. Ariz. Dep't of Child Safety*, 508 P.3d 1143 (Ariz. Ct. App. 2022), which found that a parent's use of medical marijuana during pregnancy, originally prescribed for symptoms of irritable bowel disease (IBS), did not constitute neglect even though her current nausea stemmed from hyperemesis gravidarum and not IBS. This case indicates that patients with a medical marijuana card in Arizona may use marijuana during pregnancy to treat symptoms authorized under their medical marijuana card, regardless of symptom origin. It also underscores that authorized medical marijuana use during pregnancy is not neglect.
34. Ark. Code Ann. §§ 12-18-402 (mandatory reporting of child maltreatment), 9-35-102(38)(B) (defining neglect to include prenatal substance use).
35. Ark. Code Ann. § 12-18-103(14)(B) (defining neglect to include "knowingly using" an illegal substance while pregnant, but excluding prescription substances).

Citations

36. Ark. Code Ann. § 12-18-103(14)(B). Additionally, if an infant is "born with and affected by: (A) A fetal alcohol spectrum disorder; (B) Maternal substance abuse resulting in prenatal drug exposure to an illegal or a legal substance; or (C) Withdrawal symptoms resulting from prenatal drug exposure to an illegal or a legal substance," the provider is required to make a referral to DCFS. Ark. Code Ann. § 12-18-310; *see also* 9 Ark. Code R. §§ 040-329 to -332.
37. Ark. Code Ann. §9-35-102(38)(B)(i)-(ii).
38. If an infant is "born with and affected by: (A) A fetal alcohol spectrum disorder; (B) Maternal substance abuse resulting in prenatal drug exposure to an illegal or a legal substance; or (C) Withdrawal symptoms resulting from prenatal drug exposure to an illegal or a legal substance," the provider is required to make a referral to DCFS. Ark. Code Ann. § 12-18-310; *see also* 9 Ark. Code R. §§ 040-329 to - 332. "[A]ffected by' means:
(i) An infant exhibits a condition or conditions associated with the mother's use of alcohol during pregnancy or a healthcare provider has an articulated concern that the infant suffers from a fetal alcohol spectrum disorder;
(ii) An adverse effect or effects in physical appearance or functioning that are
(a) Either diagnosed or otherwise observed; and
(b) A result of the mother's use of a legal or illegal substance during pregnancy; or
(iii) An infant exhibits withdrawal symptoms in physical appearance or functioning as a result of the mother's use of a legal or illegal substance during pregnancy." 9 Ark. Code R. 040-329(b)(2)(B).
39. Cal. Penal Code §§ 11166 (child abuse reporting), 11165.13 (substance abuse-related reporting).
40. Cal. Penal Code § 11165.13 ("[A] positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse or neglect."). If a provider notes evidence of substance "abuse" by the birthing parent at the time of delivery, the provider must assess the parent and newborn's needs. If the provider believes it is necessary to protect a newborn's health and safety, they must report to the California Department of Social Services. Cal. Penal Code § 11165.13; Cal. Health & Safety Code § 123605 (provider assessment of risk).
41. Cal. Penal Code § 11165.13 ("[A] positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse or neglect.").
42. Colo. Rev. Stat. §§ 19-3-304 (persons required to report abuse), -102(1)(g) (defining neglected or dependent child), -103(1)(a)(VII) (defining child abuse and neglect); 12 Colo. Code Regs. § 2509-1 7.000.2(A) (defining "born affected by alcohol or substance exposure").

Citations

43. The Colorado Supreme Court has found that an infant's positive test for a controlled substance is evidence that they are affected by exposure as required by the first prong. The second prong still requires additional considerations, beyond a positive test, before triggering a report. *People ex rel. B.C.B. v. A.B.*, 569 P.3d 74 (Colo. 2025). State regulation defines "born affected by alcohol or substance exposure" as follows: "A child is born affected by alcohol or substance exposure when it impacts the child's physical, developmental, and/or behavioral response." 12 Colo. Code Regs. § 2509-1 7.000.2(A).
44. Colo. Rev. Stat. §§ 19-1-103(1)(a)(VII) (emphasis added), -102(1)(g).
45. Colo. Rev. Stat. §§ 18-18-102(5) (defining controlled substances), 19-3-102(1)(g) (defining neglect to include when a child is "born affected by" alcohol or substance exposure, but excluding substances "taken as prescribed or recommended and monitored by a licensed health care provider…"), 19-3-103(1)(a)(VII) (echoing the neglect definition).
46. Conn. Gen. Stat. § 17a-101a.
47. Conn. Gen. Stat. § 17a-102a(d).
48. Conn. State Dep't of Mental Health & Addiction Servs., *Child Abuse Prevention and Treatment Act (CAPTA)/Family Care Plan* (May 2026), **https://perma.cc/863P-FC4A**.
49. 16 Del. C. §§ 903 (when reporting is required), 902B (definition of infant with prenatal substance exposure).
50. Though not required by state law, the Delaware Division of Family Services (DFS) states that all birthing hospitals in the state have a policy of universal testing of both the birthing parent and the newborn at labor and delivery with informed consent from the pregnant person. State of Del., *Plan of Safe Care Implementation Guide: For Infants with Prenatal Substance Exposure and their Families* 11 (2019), **https://perma.cc/D2ZN-ZV3Q**.
51. Though not required by state law, DFS guidance states that if a pregnant or birthing person is "identified as needing substance use disorder treatment, or is using alcohol or a substance that will likely cause withdrawal or NAS symptoms in the infant at birth," providers must refer the patient to substance use disorder treatment services. State of Del., *Plan of Safe Care Implementation Guide: For Infants with Prenatal Substance Exposure and their Families* 9 (2019), **https://perma.cc/D2ZN-ZV3Q**.
52. 16 Del. C. §§ 902B(8) (defining substance abuse as "the chronic, habitual, regular, or recurrent use of alcohol, inhalants, or controlled substances…"), 902B(9) (defining withdrawal symptoms as "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"). *See also* State of Del., *Plan of Safe Care Implementation Guide: For Infants with Prenatal Substance Exposure and their Families* 9 (2019), **https://perma.cc/D2ZN-ZV3Q**. The guide also directs healthcare providers to notify DFS if a pregnant or birthing person discloses substance use during the 60 days prior to birth, but this requirement is not in state law and is instead a DFS policy. *See id.* at 6.

Citations

53. "A provider involved in delivery or care of a newborn" must submit a CAPTA notification to the Department of Children and Families when, in their judgment, a newborn displays effects "consistent with prenatal substance exposure, withdrawal symptoms from prenatal substance exposure, or fetal alcohol spectrum disorder." 16 Del. C. § 903B(a). A notification of this type does not constitute a report of abuse or neglect "unless risk factors are present that would jeopardize the safety and well-being of the infant." 16 Del. C. § 903B(c).
54. 16 Del. C. § 903B(9) ("Withdrawal symptoms resulting 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, is not included in the definition and does not warrant a notification to the Division under § 903B of this title."). Though not included as part of state law, note that DFS assumes that in this case, the healthcare providers will take responsibility for creating the POSC and keeping the agency apprised of the family's progress. State of Del., *Plan of Safe Care Implementation Guide: For Infants with Prenatal Substance Exposure and their Families* 7-8 (2019), **https://perma.cc/D2ZN-ZV3Q**.
55. While DFS guidance does generally require a notification for prenatal marijuana exposure, DFS's response to marijuana-only exposure (with no other risk factors) does not require an investigation. This indicates that medical marijuana use during pregnancy, when monitored by a provider, is exempt from the notification process but may still require a POSC. State of Del., *Plan of Safe Care Implementation Guide: For Infants with Prenatal Substance Exposure and their Families* 12 (2019), **https://perma.cc/D2ZN-ZV3Q**.
56. Fla. Stat. § 39.201.
57. Fla. Stat. § 39.01(37)(g)(1).
58. Fla. Stat. § 39.01(37)(g)(1).
59. Fla. Stat. § 39.01(37)(g)(1).
60. O.C.G.A. § 19-7-5 (requiring reporting of child abuse; defining child abuse to include "prenatal abuse").
61. O.C.G.A. § 15-11-2(56) (defining "prenatal abuse" to include "exposure to chronic or severe use of alcohol or the unlawful use of any controlled substance ... which results in:
(A) 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
(B) Medically diagnosed and harmful effects in a newborn's physical appearance or functioning.").

Citations

62. Healthcare providers that know of a diagnosis of or health outcomes related to neonatal abstinence syndrome are required to report such cases to the Department of Public Health. These are not child abuse or neglect reports, and instead are intended to provide confidential data to the department for public health reporting. O.C.G.A. § 31-12-2(a.1)(2).
63. O.C.G.A. § 15-11-2(56).
64. Applies to "unlawful use" of a controlled substance. O.C.G.A. § 15-11-2(56).
65. Use of marijuana while pregnant is not "prenatal abuse" as marijuana is not a controlled substance under Georgia law. *See C.W. v. Dep't of Hum. Servs.*, 836 S.E.2d 836, 837 (Ga. Ct. App. 2019).
66. Haw. Rev. Stat. § 350-1.1.
67. Idaho Code § 16-1605.
68. This would still require a POSC notification if the newborn is identified as affected by the substance. And note that DHFW considers use of an unprescribed controlled substance during pregnancy, including marijuana, to be a potential reason that a caseworker may substantiate abuse. *See* IDAPA 16.06.01.563(02)(a) (describing use of any controlled substance during pregnancy, except as prescribed by a medical professional, as a potential reason for substantiated abuse that would involve listing a parent on the child protection central registry as "Level 2." However, note that this subsection of the law is currently at issue in ongoing litigation. *See Rossow v. Jeppeson*, 2026 U.S. Dist. LEXIS 3668 (D. Idaho Jan. 7, 2026)). In our analysis, a positive test or substance-affected newborn alone would only automatically require a report where non-accidental, non-prescription ingestion of a controlled substance during pregnancy directly caused a "failure to thrive," requiring medical intervention. *See* Idaho Code § 16-602(1)(a) (defining abuse). As explained in the introduction to this report, there are other reasons, e.g., overarching safety concerns, that could trigger a mandatory report. *See, e.g.*, Idaho Code § 16-602(31)(b).
69. 325 Ill. Comp. Stat 5/4.
70. However, healthcare providers giving prenatal services must recommend referral to substance abuse treatment to any pregnant person suspected of having a substance use disorder. The treatment center or hospital where a provider refers must be licensed by the Illinois Department of Human Services, and this treatment is covered under state Medicaid. 305 Ill. Comp. Stat. 5/5-5.
71. This includes metabolites of a controlled substance. 705 Ill. Comp. Stat. 405/2-3(1)(c) (defining neglect to include when a newborn's blood, urine, or meconium tests positive for controlled substances unrelated to medical treatment); 89 Ill. Adm. Code 300 Appx. B15/65 (Option C) (defining child abuse and neglect allegations).
72. 89 Ill. Adm. Code 300 Appx. B 15/65 (Option B).
73. 89 Ill. Adm. Code 300 Appx. B 15/65 (Option C, Note); 705 Ill. Comp. Stat. 405/2-3(1)(c) (a positive test for a controlled substance related to the medical treatment of a birth parent or newborn does not trigger a child neglect report).

Citations

74. Ill. Dep't of Child. & Fam. Servs., *Department of Children and Family Services Policy Guide 2001.15: Substance Affected Infants* (Oct. 2001), **https://perma.cc/V6MQ-8GHU**.
75. Ind. Code Ann. § 31-33-5-1.
76. Per Indiana's Department of Child Services' (DCS) Child Welfare Policy Manual, substance use alone does not indicate child abuse or neglect. *See* Ind. Dep't of Child Servs., *Drug Screening in Assessments, in Ind. Child Welfare Pol'y Manual* (Jan. 2026), **https://perma.cc/ZJ59-V95P**. DCS considers drug screening when there is an indication that substance use may be a factor in child abuse or neglect. *Id*.
77. Ind. Code Ann. § 31-34-1-10 to -11.
78. Ind. Code Ann. § 31-34-1-12 to -13; *see also* Ind. Code Ann. §§ 35-48-2-4(d) (scheduling marijuana), -6(c) (scheduling methadone), -8(e) (scheduling buprenorphine).
79. Iowa Code § 232.69 (mandatory reporter requirements).
80. Iowa Code § 232.77(2)(a) (reporting of test results); *see also* § 232.68(2)(6) (defining "abused child" to include children exposed to substances before birth).
81. Iowa Code § 232.77(2)(b).
82. There is no explicit exclusion of prescription medicines in the pertinent code section, Iowa Code § 232.77(2)(b), as there is in the previous section, (a). Additionally, the DHHS guide for mandatory reporters indicates their expectation that providers contact DHHS so they can be involved in the creation of the POSC when an infant is born and identified as substance-affected. It's unclear whether or not DHHS will substantiate a report on this basis alone when the exposure is due to medical treatment such as methadone or buprenorphine, or if they'll consider this a notification pathway that requires only a POSC creation. *See* Iowa Health & Hum. Servs., *Child Abuse: A Guide for Mandatory Reporters* 22 (Comm. 164, Rev. July 2024), **https://perma.cc/V7RK-3MFJ**.
83. Kan. Stat. Ann. § 38-2223.
84. As of January 2025, Kansas Adminitrative Regulations § 30-46-10 no longer defines withdrawal symptoms resulting from prenatal exposure as possible neglect.
85. Ky. Rev. Stat. §§ 620.030 (duty to report), 214.160(4) (considering factors in addition to test result).
86. Ky. Rev. Stat. § 214.160(7).
87. Ky. Rev. Stat. §§ 214.160(4) ("The circumstances surrounding any positive toxicology finding shall be evaluated by the attending person to determine if abuse or neglect of the infant … shall be reported to the state's child protective services agency."), 600.020(1)(a)(3). The Child Protection Branch's guidance reaffirms that parental substance misuse is considered child neglect only when it "interferes with the ability to properly parent the child." Cabinet for Health & Family Servs., *Reporting Abuse, Neglect, and Dependency* 11 (Oct. 2021), **https://perma.cc/5Z6P-KFEQ**.
88. Ky. Rev. Stat. § 214.160(5).

Citations

89. Ky. Rev. Stat. § 214.160(5). Although Kentucky's law uses the word "report," it cites a federal law, 42 United States Code § 5106a, which requires a "Plan of Safe Care" and a *notification* to a state's child protective services agency. The federal law is clear that this notification is not the same as a child abuse report.
90. See Ky. Rev. Stat. § 214.160(4).
91. *See* Ky. Rev. Stat. § 218A.010(28)(h) (scheduled "marijuana" does not include medical cannabis); 902 Ky. Admin. Regs. 55:015E § 1(3)(b) (if a drug is exempt from the definition of marijuana, then it is not a Schedule 1 substance).
92. La. Child Code Ann. arts. 609(A)(1) (reporting requirement), 610(G) (reporting procedure).
93. La. Child Code Ann. art. 610(G)(1); La. Dep't of Child. & Fam. Servs., *Substance Exposed Newborns Reporting and Notifications*, **https://perma.cc/H3B3-UWZX** (last visited July 10, 2026) (defining "newborn" as "a child who is not more than 30 days old"); La. Child Code Ann. art. 603(19) ("'Newborn' means a child who is not more than thirty days old, as determined within a reasonable degree of medical certainty by an examining physician.").
94. La. Child Code Ann. art. 603(18) (defining child neglect to include "prenatal neglect," further defined in (24)).
95. La. Child Code Ann. art. 610(G)(1).
96. La. Child Code Ann. art. 610(G)(2).
97. La. Child Code Ann. art. 603(18) (defining child neglect to include "prenatal neglect"), -(24) (defining "prenatal neglect").
98. La. Stat. Ann. § 40:1086.11(A); La. Admin. Code tit. 67, pt. V, § 1135 (notification requirement).
99. La. Admin. Code tit. 67, pt. V, § 1135. The form should be faxed to Centralized Intake at (225)-256-1422. La. Dep't of Child. & Fam. Servs., *Physician Notification of Substance Exposed Newborns No Prenatal Neglect Suspected*, (Jan. 2018) **https://perma.cc/XA2T-RMMQ** (reporting form); La. Dep't of Child. & Fam. Servs., *Substance Exposed Newborns Reporting and Notifications*, **https://perma.cc/H3B3-UWZX** (last visited July 10, 2026) (reporting instructions).
100. Me. Stat. tit. 22, §§ 4011-C (substance-affected infant notification requirement), 4004-C(1)-(2) (Department's response to a substance-affected infant notification) (2025). Maine repealed its prior substance-affected infant notification requirement in September 2025. Under the new law, the Department is no longer required to respond to notifications by investigating whether an infant is abused or neglected.
101. Me. Rev. Stat. tit. 22, § 4011-C(1)-(3). Note that this is not a child abuse or neglect report.
102. Md. Code Ann., Fam. Law §§ 5-704 (general abuse and neglect reporting requirement), 5-704.2 (substance-exposed newborn reporting requirement).
103. *See* 2018 Md. HB 1744 (enacted May 8, 2018) (eliminating requirement to report a birthing parent for substance use).

Citations

104. Md. Code Ann., Fam. Law § 5-704.2(i); *see also* Md. Dep't of Hum. Servs, *Signs of Neglect or Abuse*, **https://perma.cc/6BST-9HWH** (last visited Sept. 10, 2025); *Kilmon v. State*, 905 A.2d 306, 314 (2006) (finding that legislative history "shows rather clearly that" a pregnant person's use of a controlled dangerous substance does not constitute reportable child abuse or neglect).
105. Md. Code Regs. 07.02.08.03 (provider must be involved in delivery or care of newborn to make a report), 07.02.08.01 (purpose and goals of Substance-Exposed Newborns Program); Md. Code Ann., Fam. Law § 5-704.2(a)(4) (defining "newborn"), -(b) (conditions requiring a report).
106. Md. Code Reg. 07.02.08.05 (requiring a departmental assessment).
107. Md. Code Ann., Fam. Law § 5-704.2(e) (statute listing exceptions); Md. Code Regs. 07.02.08.03(C) (regulation listing exceptions).
108. Mass. Gen. Laws ch. 119, § 51A.
109. Mass. Gen. Laws ch. 119, § 51A. Massachusetts' reporting law was amended in 2024 to explicitly say that a newborn's substance exposure is not sufficient, on its own, to trigger a child abuse or neglect report: "an indication of prenatal substance exposure shall not solely meet the requirements of this section." *Id*. This amendment also required administrative agencies to prepare new regulations detailing requirements for healthcare providers when caring for pregnant people and newborns affected by substance use. *Id*. These regulations - not available at the time this report was published - will likely reflect the requirement for a POSC notification. In the meantime, the Massachusetts Department of Children and Families guidance does not accurately reflect the 2024 amendment. *See, e.g.*, Mass. Dep't of Child. & Fams., *Child Abuse and Neglect Reporting: A Guide for Mandated Reporters* (2016), **https://perma.cc/Q95A-WHGA**.
110. Mich. Comp. Laws § 722.623a.
111. Mich. Comp. Laws § 722.623a.
112. Mich. Comp. Laws § 722.623a; *see also* Mich. Dep't of Health & Hum. Servs., *Mandated Reporters of Abuse and Neglect* 15 (Nov. 2025), **https://perma.cc/2DJP-UGYT**.
113. Minn. Stat. §§ 260E.03(Subd. 15)(a)(5) (defining "prenatal exposure to a controlled substance" as neglect), 260E.31 (reporting requirement for prenatal controlled substance exposure), 260E.32 (testing requirement for prenatal controlled substance exposure).
114. Testing must be performed by a lab meeting specific legal requirements. Minn. Stat. § 260E.32(Subd. 4).
115. Minn. Stat. § 260E.32.
116. Minn. Stat. §§ 260E.03(Subd. 15)(a)(5); *see also* Minn. Dep't of Hum. Servs., *Minnesota's Best Practice Guide for Responding to Prenatal Exposure to Substance Use* 7 (Oct. 2020), **https://perma.cc/8WDW-QMVD**.
117. Minn. Stat. § 260E.31.
118. Minn. Stat. § 260E.32.
119. Minn. Stat. § 260E.32.
120. Minn. Stat. §§ 260E.03(Subd. 15)(a)(5).

Citations

121. Miss. Code Ann. §§ 43-21-353 (general child abuse and neglect reporting requirement), -105 (definitions).
122. *See, e.g.*, Miss. Dep't of Child Prot. Servs., *Child Abuse Prevention*, **https://perma.cc/MHR7-J6LQ** (last visited July 21, 2026) (not listing substance use as a common indicator of child abuse or neglect). This does not preclude a POSC notification. Additionally, note that Mississippi's Department of Child Protection Services (DCPS) Policies and Procedures Manual on Intake says that all positive drug tests for a "mother and/or infant" post-birth will be screened in for investigation and analysis. Miss. Dep't of Child Prot. Servs., *Intake Policies and Procedures* 20, 25 (effective Oct. 15, 2020), **https://perma.cc/V4WB-94UF**. This indicates that DCPS views substance use during pregnancy as automatically indicative of a need for intervention, but does not necessarily mean the agency views these cases as clear instances of child neglect or abuse. There is not a clear exclusion of required screen-in for a positive test that is due to a parent's use of a prescribed substance. However, this manual is about how DCPS employees will treat a positive test, and is not about whether or not a provider must report. Under Mississippi law, providers need only report when they suspect actual neglect or abuse has occurred. *See* Miss. Code Ann. §§ 43-21-353 (general child abuse and neglect reporting requirement), -105 (definitions).
123. Mo. Rev. Stat. § 191.737(1)-(2).
124. *See* Mo. Dep't of Soc. Servs., *Child Welfare Manual* § 4.4.1 (June 2026), **https://perma.cc/WT8Q-MF3C**. The Department of Social Services (DSS) does not require a notification or report merely because a pregnant or birthing person tested positive for a substance, specifically including marijuana use for pregnancy-related nausea. *Id*.
125. Mo. Rev. Stat. § 191.737(2) (requiring medical documentation of controlled substance or alcohol exposure at birth or a positive toxicology test for a controlled substance). DSS interprets "affected by" to mean actual harm or risk of harm. *See* Mo. Dep't of Soc. Servs., *Child Welfare Manual* § 4.4.1 (June 2026), **https://perma.cc/WT8Q-MF3C** ("When determining if a newborn has been 'affected'..., workers must assess if the newborn's physical, mental, or general well-being is affected by the use of substances by the parent/caretaker.").
126. Note that Missouri law specifically does not allow child endangerment charges against a parent for "indirectly harming her unborn child by failing to properly care for herself" by using substances during pregnancy. Mo. Rev. Stat. § 1.205; *see also State v. Wade*, 232 S.W.3d 663, 665-66 (Mo. Ct. App. W. Dist. 2007) ("Our legislature has chosen to handle the problems of pregnant mothers through social service programs instead of the court system.").
127. Mont. Code Ann. § 41-3-201.
128. "Affected by" is not further defined in this code section.
129. Mont. Code Ann. § 41-3-201(3) (requiring reports for infants affected by "dangerous drugs"). "Dangerous drug" refers to a drug, substance, or immediate precursor in Schedules I through V. Mont. Code Ann. § 50-32-101(6).

Citations

130. U.S. Food & Drug Admin., *Information about Medications for Opioid Use Disorder (MOUD)* (Dec. 26, 2024), **https://perma.cc/99G5-D3B4**. However, this infant would still require a Plan of Safe Care, which necessitates a notification to the child protective services agency.
131. Mont. Code Ann. § 50-32-101(7)(b).
132. Neb. Rev. Stat. §§ 28-710 (definitions), -711 (general child abuse and neglect reporting requirement).
133. "Substance use alone does not indicate abuse or neglect." Neb. Dep't of Health & Hum. Servs., *Child Abuse*, **https://perma.cc/SC7X-XSK9** (last visited July 23, 2026). As explained in the introduction, certain instances of exposure to substances during pregnancy would require a POSC notification, which is not the same as an abuse report. Note that the state has a specific notification form for "infants born and identified as affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure or Fetal Alcohol Spectrum Disorder," indicating that providers should not call the main hotline in cases of a notification. Neb. Dep't of Health & Hum. Servs., *Comprehensive Addiction and Recovery Act (CARA)*, **https://perma.cc/2FMP-C6US** (last visited July 23, 2026).
134. Nev. Rev. Stat. Ann. §§ 432B.220 (listing persons required to report abuse or neglect), 432B.330(4) (child may be in need of protection if affected by prenatal substance or alcohol exposure).
135. Nev. Rev. Stat. Ann. § 432B.220(3).
136. "[A] parent's substance abuse alone does not establish parental unfitness. Instead, there must be clear and convincing evidence that the parent's substance abuse consistently prevents the parent from providing the child with proper care, guidance, and support." *In re G.R.S.*, 531 P.3d 1249, 1256 (Nev. 2023).
137. N.H. Rev. Stat. Ann. §§ 132:10-f (reporting requirements), 169-C:3 (II, XIX) (defining abuse and neglect), 169-C:29 (listing persons required to report), 132:10-e (Plan of Safe Care).
138. A New Hampshire Supreme Court case from 2023 found that an infant diagnosed with Neonatal Abstinence Syndrome was an "abused child," because the state's definition of abused child includes physical injury by nonaccidental means, and does not say the injury itself needs to occur once the child is born - just that it needs to manifest itself post-birth. Using this analysis, the Court held that child abuse can include a parent's substance use during pregnancy. *In re J.P.S.*, 300 A.3d 247 (N.H. 2023). However, the court did not rule that all substance use during pregnancy is child abuse. Thus, this case has not changed provider reporting requirements. Note that for all instances where an infant is born and identified as affected by substance abuse or withdrawal symptoms or a fetal alcohol spectrum disorder, providers are required under New Hampshire law to "develop a plan of safe care...." (Federal law only requires that a POSC be in place, but New Hampshire law requires that the healthcare provider be part of its development.) N.H. Rev. Stat. Ann. § 132:10-e. However, providers are NOT required to submit the POSC to the Department of Health and Human Services unless they are also making a report of child abuse or neglect.
139. N.J. Stat. Ann. §§ 9:6-8.10, .21(c) (definitions).

Citations

140. N.J. Admin. Code § 3A:26-1.2. Drug tests providing a qualitative result (i.e. a positive or negative result) are insufficient: confirmation testing must use "advanced analytical techniques" with a quantitative (i.e. numerical) result. *Id*.
141. Providers who must make substance-affected infant notifications are those that work at a "[h]ospital, health care facility, or other health care provider that is separately licensed as a birth center by the Department of Health, pursuant to the licensing rules at N.J.A.C. 3A:43A." N.J. Admin. Code § 3A:26-1.2.
142. N.J. Admin. Code § 3A:26-1.2.
143. "[S]ubstance use that results in gestational exposure is not, in and of itself, child abuse or neglect." N.J. Admin. Code § 3A:26-1.2. New Jersey courts have determined that substance use during pregnancy is not child abuse or neglect if there is no evidence of "actual harm," "imminent danger," or "substantial risk" to a newborn. *N.J. Dep't of Child. & Families v. A.L.*, 59 A.3d 576, 580 (N.J. 2013). *See also* N.J.A.C. 3A:26-1.4 (listing non-identifying contents of a notification).
144. N.J. Admin. Code § 3A:26-1.3(a)(2).
145. N.J. Admin. Code § 3A:26-1.2. Drug tests providing a qualitative result (i.e. a positive or negative result) are insufficient: confirmation testing must use "advanced analytical techniques" with a quantitative (i.e. numerical) result. *Id*.
146. Providers who must make substance-affected infant notifications are those that work at a "[h]ospital, health care facility, or other health care provider that is separately licensed as a birth center by the Department of Health, pursuant to the licensing rules at N.J.A.C. 3A:43A." N.J. Admin. Code § 3A:26-1.2.
147. N.J. Admin. Code § 3A:26-1.2.
148. N.J. Admin. Code § 3A:26-1.2; *N.J. Dep't of Child. & Families v. A.L.*, 59 A.3d 576, 580 (N.J. 2013). *See also* N.J.A.C. 3A:26-1.4 (listing non-identifying contents of a notification).
149. N.J. Admin. Code § 3A:26-1.3(a)(2).
150. N.J. Admin. Code § 3A:26-1.2 (2026) (definitions) (numeration omitted). Effective January 1, 2026, DCF has narrowed this reporting requirement. The rule now requires "confirmation-level toxicology testing" after a presumptive positive result from a toxicology screen and de-identifies substance-affected infant notifications. It no longer requires that DCF be directly involved with families that do not present child abuse or neglect concerns. *Id*.
151. N.M. Stat. Ann. § 32A-4-3 (reporting requirements); 37 N.M. Reg. 803(8.3.2.9.E) (reiteration of reporting requirements specific to infants).
152. 37 N.M. Reg. 803(8.3.2.9.A).
153. 37 N.M. Reg. 803(8.3.2.9.B) ("Disclosure of substance use by a pregnant person shall not trigger mandatory abuse and neglect reporting or testing without clinical indication.").
154. 37 N.M. Reg. 803(8.3.2.10.A).
155. 37 N.M. Reg. 803(8.3.2.9.C).
156. 37 N.M. Reg. 803(8.3.2.9.B).
157. 37 N.M. Reg. 803(8.3.2.9.D).
158. 37 N.M. Reg. 803(8.3.2.10.A). This regulation together with 37 N.M. Reg. 803(8.3.2.11) spells out different requirements for the POSC itself.

Citations

159. 37 N.M. Reg. 803(8.3.2.13.B.)
160. While a notification is required when an infant is born substance-exposed, that notification is not a child abuse or neglect report. N.M. Stat. Ann. § 32A-4-3(I).
161. *See* Emergency Petition for Writ of Mandamus and Request for Stay at Exhibits 1 & 2, *A.C.L.U. of New Mexico v. Grisham* (N.M. May 19, 2026).
162. *See* N.M. Stat. Ann. § 32A-4-3(G) ("A finding that a pregnant woman is using or abusing drugs made pursuant to an interview, self-report, clinical observation or routine toxicology screen shall not alone form a sufficient basis to report child abuse or neglect…."); *see also* N.M. Stat. Ann. § 32A-4-2(E)(4) (defining "neglected child" to mean one "whose parent … is unable to discharge his responsibilities to and for the child because of incarceration, hospitalization or physical or mental disorder or incapacity"); *State of N.M. ex rel CYFD v. Amanda H.*, 154 P.3d 674, 680 (N.M. Ct. App. 2006) (reading New Mexico Statutes Annotated § 32A-4-2 to mean that "an unfavorable personal status of a parent, such as … addiction, is alone insufficient to support an adjudication that a child is neglected. The Abuse and Neglect Act requires that the [addiction] render the parent unable to provide proper parental care or discharge his or her responsibilities to the child").
163. N.Y. C.L.S. Soc. Serv. § 413.
164. Yasmeen Khan, *NYC Will End Practice of Drug Testing Pregnant Patients Without Written Consent*, WNYC News (Nov. 17, 2020), **https://perma.cc/N6XE-46XF**.
165. A positive toxicology test result, by itself, for a parent or an infant is not child abuse or maltreatment and does not require a report to the Statewide Central Register of Child Abuse and Maltreatment (SCR). N.Y. Dep't of Health, Off. of Addiction Servs. & Supports, *Screening and Testing for Substance Use in Pregnancy* 3 (Apr. 2025), **https://perma.cc/3AHE-FUGX**.
166. N.C. Gen. Stat. § 7B-301.
167. Although North Carolina's Department of Health and Human Services' (DHHS) guidance indicates that providers must notify DHHS when a pregnant person presents with a substance use disorder, this guidance goes beyond what North Carolina law requires or permits. *Compare* N.C. Dep't of Health & Hum. Servs., *North Carolina Requirement to Notify Child Protective Services (CPS) of Substance Affected Infant*, DSS-1403 [Rev. 7/2017], **https://perma.cc/8FWP-BNUQ** *with* N.C. Gen. Stat. § 7B-301.
168. DHHS guidance suggests that providers must notify DHHS any time a newborn tests positive for a substance or alcohol and presents with "other clinical concerns," but North Carolina law does not require or permit this. *Compare* N.C. Dep't of Health & Hum. Servs., *North Carolina Requirement to Notify Child Protective Services (CPS) of Substance Affected Infant*, DSS-1403 [Rev. 7/2017], **https://perma.cc/8FWP-BNUQ** *with* N.C. Gen. Stat. § 7B-301.
169. N.D. Cent. Code §§ 50-25.1-03 (listing persons required to report abuse or neglect), -02(20)(f) (defining "neglected child").

Citations

170. In 2025, S.B. 2232 made formerly-mandatory toxicology testing and reporting requirements voluntary instead. Providers are no longer required by law to test a parent or an infant. If a provider does test, they are not required to report a positive result. However, prenatal substance exposure remains a part of the state's definition of "neglected child" and would normally require a report. The state has not issued guidance on this ambiguity. Providers may wish to consult an attorney on this issue.
171. N.D. Cent. Code § 50-25.1-17(1).
172. N.D. Cent. Code § 50-25.1-16(1). Note that "abuse of a controlled substance" is not further defined in law and therefore subject to provider discretion. Marijuana, buprenorphine, and methadone are all controlled substances in North Dakota. The use of prescribed medications taken as directed would likely not be considered "abuse."
173. N.D. Cent. Code § 50-25.1-16(2).
174. N.D. Cent. Code § 50-25.1-17(2).
175. Ohio Admin. Code 5101:2-1-01(B)(314) (defining substance-affected infant); Ohio Rev. Code Ann. § 2151.031 (defining abused child); Ohio Rev. Code Ann. § 2151.421 (describing reporting requirements). *See also* Ohio Admin. Code 5101:2-36-03(S) (describing screening process for a "public children's service agency" in cases of a substance-affected infant). This law indicates that most substance-affected infant reports will be screened out provided the healthcare provider doesn't have any safety concerns, but practice may vary.
176. If a healthcare provider is treating a pregnant person for any conditions related to pregnancy before the 20th week of pregnancy, and has reason to believe a pregnant person has used or is using a controlled substance "in a manner that may place the woman's fetus in jeopardy" they are required to encourage the pregnant person to attend drug treatment. Ohio Rev. Code Ann. § 3701.59.
177. Though Ohio law does not specifically require a report after a positive drug test for a pregnant person, Ohio Department of Children and Family Services interprets Ohio law to require a report in that instance. We read this as an incorrect interpretation of Ohio law. *See also Schill v. Lake Cnty. Dep't of Job & Fam. Servs.*, 2024 U.S. Dist. LEXIS 57097 at *11 (N.D. Ohio Mar. 29, 2024) (concluding that a medical professional had a "clear legal duty under Ohio law" to report a pregnant person's positive drug test even though the infant tested negative, but this conclusion is dicta and non-binding).

Citations

178. *In re Baby Boy Blackshear*, 736 N.E.2d 462 (Ohio 2000). The Ohio Supreme Court found that an infant's positive drug screen for illegal substances due to prenatal exposure makes the infant an "abused child" under the state's statutory definition of abused child, thus triggering a report. Because this case applies only to "illegal" substances, it does not apply to marijuana, which is legal in Ohio as long as the pregnant person is 21 or older, or to buprenorphine or methadone if taken as prescribed. *See also* Ohio Admin. Code § 5101:2-1-01(314) (defining "substance affected infant" and implying that "in utero exposure to a legal or illegal substance" means a child may be "abused," but specifically exempting prescribed substances). However, a case in January 2026 went on to find that even if a pregnant person does not realize they're pregnant, their born child should still be deemed "abused" if they test positive for an illegal substance. *In re M.A.*, 2026 Ohio App. LEXIS 121, at *10-11 (2026).

179. Ohio law explicitly exempts prescribed substances from its "substance affected infant" definition. Ohio Admin. Code 5101:2-1-01(B)(314) ("[s]ubstance affected infant" means a child under the age of twelve months who is abused … due to in utero exposure to a legal or illegal substance. This does not include in utero exposure to any substance used as prescribed during the pregnancy."). A POSC notification is still required under federal law.

180. Though consuming cannabis is legal in Ohio for people over age 21, and thus not per se child abuse, the Ohio Department of Job and Family Services still interprets Ohio law to mandate "a referral" in this instance. *See* Ohio Dep't of Job & Family Servs., *Pocket Guide for Providers Serving Expectant Mothers with Substance Use Disorders* (July 2021), **https://perma.cc/ARP8-T45Q**. Federal law only requires a POSC notification, not a report.

181. Okla. Stat. tit. 10A, § 1-2-101 (establishing general mandatory reporting requirements).

182. Okla. Stat. tit. 10A, § 1-2-101(B)(3) (reporting related to substance affected newborns); *see also* Okla. Admin. Code § 340:75-3-120(b)(14) (defining "drug-endangered child" and referring back to the mandatory reporting requirement).

183. Although healthcare providers are required to report an infant testing positive for prescribed substances, a pregnant person's use of a prescribed controlled substance, including medical marijuana, is not child neglect. *State v. Aguilar*, No. S-2023-575, 2024 LEXIS 17, at *6 (Okla. Crim. App. 2024) (declining to apply child neglect laws where the pregnant person's use of a controlled substance is legal, and specifically where the pregnant person uses marijuana under a medical license). *See also State v. Green*, 474 P.3d 886, 893 (Okla. Crim. App. 2020) (holding that a viable fetus is a "child" for the purposes of the child neglect statute specifically and only concerning neglect that causes a child's death from "illegal" substance use by the pregnant person).

Citations

184. Or. Rev. Stat. §§ 419B.005(6) (defining mandated reporters to include physicians, nurses, psychologists, social workers, marriage and family therapists, and pharmacists), .010 (requiring mandatory reporters who encounter a child they have "reason to believe has suffered abuse" to report); Or. Admin. R. 413-015-0115(34) (defining "infant with prenatal substance exposure"), -080-0050(32) (defining "substance-affected infant" for the purposes of a POSC).
185. Or. Rev. Stat. § 430.915 ("If during routine pregnancy or prenatal care, the provider determines that the patient misuses drugs, alcohol, or uses unlawful controlled substances, or the patient admits such use to the provider, state policy advises providers to encourage and facilitate counseling, drug therapy and other assistance to the patient to avoid having the child, when born, become subject to protective services.").
186. 23 Pa. Cons. Stat. §§ 6311 (general mandatory reporting requirement), 6386 (requiring notification in the event a "child [is] born affected by 1) substance use or withdrawal symptoms resulting from prenatal drug exposure, or 2) a Fetal Alcohol Spectrum Disorder"; establishing that a notification does not constitute a child abuse report).
187. 23 Pa. Cons. Stat. § 6386(a.1); *see also In re L.J.B.*, 199 A.3d 868, 875–78 (Pa. 2018) (holding that the child abuse statute does not apply to fetuses, and that a mother could not be a "perpetrator" of child abuse due to use of opioids while pregnant).
188. Ohio law explicitly exempts prescribed substances from its "substance affected infant" definition. Ohio Admin. Code 5101:2-1-01(B)(314) ("'Substance affected infant' means a child under the age of twelve months who is abused … due to in utero exposure to a legal or illegal substance. This does not include in utero exposure to any substance used as prescribed during the pregnancy."). A POSC notification is still required under federal law.
189. 40 R.I. Gen. Laws § 40-11-6 (general mandatory reporting requirement).

Citations

190. Rhode Island's resources for both pregnant people who use substances and their healthcare providers suggest that substance-affected infants will not automatically result in involvement by the Department of Children, Youth and Families, even though a POSC is always required. Prevent Overdose RI, *Perinatal Substance Use Trifold Brochure*, **https://perma.cc/T59M-PLVL** (last visited Dec. 10, 2025) (for pregnant people who use substances); R.I. Dep't of Health, *Substance-Exposed Newborns: Information for Pediatric Healthcare Professionals* (Mar. 18, 2026), **https://perma.cc/65ME-7THP** ("Rhode Island's Plan of Safe Care (POSC) process is intended to support substance-exposed newborns and their adult caregivers."); R.I. Dep't of Health, *Substance-Exposed Newborns: Information for Pediatric Healthcare Professionals* (Mar. 18, 2026), **https://perma.cc/65ME-7THP** ("Rhode Island's [POSC] process is intended to support substance-exposed newborns and their adult caregivers."); R.I. Dep't of Child., Youth & Fams., *Circle of Safe Care Plan* (June 16, 2025), **https://perma.cc/K6ZM-RJXZ** (for healthcare providers). However, state law uses the word "report" instead of "notify." R.I. Gen. Laws § 40-11-6(a) ("When any physician, duly certified registered nurse practitioner, or other healthcare provider is involved in the delivery or care of infants born with, or identified as being affected by, substance abuse or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder … he or she shall report the incident….").

191. R.I. Gen. Laws § 40-11-6(a).

192. S.C. Code Ann. §§ 63-7-310 (persons required to report), -1660(F) (noting that courts will presume a child abused or neglected if 1) the mother or child tests positive for a controlled substance at birth that is not the result of medical treatment; 2) the child is diagnosed with Fetal Alcohol Syndrome; 3) another of the mother's children or the mother tested positive for a controlled substance at their birth that is not the result of medical treatment; or 4) another of the mother's children was diagnosed with Fetal Alcohol Syndrome). A presumption of child abuse or neglect under § 63-7-1660(F) may be rebutted by proof that another suitable adult may provide care for the child. Though this statute is directed at court proceedings, because the first two requirements are repeated in the South Carolina Department of Social Services guide for mandatory reporters, we believe this is sufficient to show the state intends medical providers to report only in circumstances 1 and 2, or when medical providers otherwise reasonably believe a child will be harmed by the pregnant person's substance use.

193. South Carolina's guide for mandated reporters also encourages a report when a pregnant person is using "an illegal substance" while pregnant with "a viable fetus" if "the professional has a reasonable belief that the mother's actions are causing harm or pose a substantial risk of harm to a viable fetus." *See* Childs. L. Ctr., Univ. of S.C. Sch. of L., *Mandated Reporter Guide* (June 2018), **https://perma.cc/P68H-JE6A**. This is not required under South Carolina law. A person must know they are pregnant in order for their conduct while pregnant to "serve as a basis for a finding of abuse or neglect[.]" *S.C. Dep't of Soc. Servs. v. Jennifer M.*, 744 S.E.2d 591, 599 (S.C. Ct. App. 2013).

Citations

194. Just because something can be considered child abuse by a court does not impact a medical professional's subjective decision as to whether or not substance use while pregnant with a viable fetus will result or actually resulted in reportable harm.
195. *Whitner v. State*, 492 S.E.2d 777 (S.C. 1997) (holding that the word "child" as used in South Carolina's child abuse and neglect statutes includes viable fetuses specifically as it concerns cocaine use while pregnant with a viable fetus); *see also State v. McKnight*, 576 S.E.2d 168 (S.C. 2003) (holding that cocaine ingestion that caused the death of an stillborn child was homicide by child abuse), *overturned on other grounds* by M*cKnight v. State*, 661 S.E.2d 354, 358 (S.C. 2008) (overturning a homicide by child abuse conviction on the basis that the defense failed to call an expert who would opine as to flaws in studies purporting to link cocaine to stillbirth, comparing the potential harm of cocaine to "nicotine use, poor nutrition, lack of prenatal care, or other conditions commonly associated with the urban poor.")
196. S.C. Code Ann. § 63-7-1660(F); *see also* Mayo Clinic, *Fetal alcohol syndrome* (June 13, 2024) ("Fetal alcohol syndrome is on the severe end of fetal alcohol spectrum disorders (FASD).").
197. S.D. Codified Laws §§ 26-8A-2, -35.
198. S.D. Codified Laws §§ 26-8A-2(9) (defining child abuse) (emphasis added), -35. Though § 26-8A-35 states that a newborn's positive test for a controlled substance requires a report, the referenced report explicitly exempts substances from the child abuse definition if they are lawfully prescribed. *See* S.D. Codified Laws § 26-8A-8.
199. Tenn. Code Ann. §§ 37-1-102(b)(1) (defining abuse, which includes neglect), (b)(20) (clarifying that neglect "does not exist solely on the basis of economic disadvantage"); 37-1-403 (requiring mandatory reporting of child abuse and neglect).
200. Tenn. Att'y Gen., Opinion Letter No. 02-136 on Drug Tests on Pregnant Women and Infants and the Child Abuse Reporting Statute (Dec. 23, 2002), **https://perma.cc/2QUS-2KBG**.
201. Tenn. Att'y Gen., Opinion Letter No. 02-136 on Drug Tests on Pregnant Women and Infants and the Child Abuse Reporting Statute (Dec. 23, 2002), **https://perma.cc/2QUS-2KBG**.
202. Tenn. Att'y Gen., Opinion Letter No. 02-136 on Drug Tests on Pregnant Women and Infants and the Child Abuse Reporting Statute (Dec. 23, 2002), **https://perma.cc/2QUS-2KBG**. The Attorney General opinion uses the term "illegal drugs." Though the opinion does not define "illegal drugs," elsewhere in Tennessee law, that term refers to drugs that violate state law if distributed. Thus, it would not include lawfully prescribed medication. *See* Tenn. Code. Ann. § 29-38-104(1).

Citations

203. Tenn. Att'y Gen., Opinion Letter No. 02-136 on Drug Tests on Pregnant Women and Infants and the Child Abuse Reporting Statute (Dec. 23, 2002), **https://perma.cc/2QUS-2KBG**. The Attorney General opinion uses the term "illegal drugs." Though the opinion does not define "illegal drugs," elsewhere in Tennessee law, that term refers to drugs that violate state law if distributed. Thus, it would not include alcohol or other lawful uncontrolled substances. See Tenn. Code. Ann. § 29-38-104(1).
204. Tex. Fam. Code Ann. § 261.101 (mandatory reporting requirement).
205. 40 Tex. Admin. Code § 707.455(b)(2)(B)(i), (iii).
206. 40 Tex. Admin. Code § 707.455(b)(2)(B)(ii).
207. 40 Tex. Admin. Code § 707.467(d). Note that the law defines "endangered" as including, but not limited to "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, or evidence that the infant was in immediate danger of harm from the mother's use of alcohol or a controlled substance."
208. 40 Tex. Admin. Code § 707.467(d)(2).
209. 40 Tex. Admin. Code § 707.467(d).
210. Utah Code Ann. § 80-2-603 (reporting requirements specific to substance use during pregnancy); Utah Admin. Code r. 512-80-2(2) (defining "abuse" to include "fetal exposure to alcohol or other harmful substances").
211. Utah Code Ann. § 80-2-603(2)(a); Utah Admin. Code r. 512-80-2(16) (defining "fetal exposure to alcohol or other harmful substances" to include only "a condition in which a newborn is adversely affected by the child's mother's substance abuse during pregnancy, has fetal alcohol syndrome or [a] fetal alcohol spectrum disorder, or demonstrates drug or alcohol withdrawal symptoms" from unprescribed substances).
212. Utah Code Ann. § 80-2-603(2)(b).
213. Utah Code Ann. § 80-2-603(1)(d)(ii); Utah Admin. Code r. 512-80-2(16) (explicitly excluding effects from medications taken by the pregnant or birthing person as prescribed).
214. Vt. Stat. Ann. tit. 33, §§ 4912 (defining "abused or neglected child" and other definitions relevant for mandatory reporters), 4913 (defining mandated reporters and their requirements).
215. Vt. Dep't for Child. & Fams., *Frequently Asked Questions: Vermont CAPTA Notifications* at 2 (2018), **https://perma.cc/YL7N-X96Z**. Although DCF suggests in some guidance that child abuse reports are needed when a pregnant person or newborn merely tests positive for a controlled substance, elsewhere it clearly states that prenatal substance exposure, without more, only triggers a notification. *Compare id*. with Vt. Dep't for Child. & Fams., *Vermont Plans of Safe Care*, **https://perma.cc/G2F9-DGNL** ("A de-identified CAPTA notification form should be completed for substance-exposed newborns…."). Vermont law does not require a report for substance exposure alone.

Citations

216. Vt. Dep't for Child. & Fams., *Frequently Asked Questions: Vermont CAPTA Notifications* at 2 (2018), **https://perma.cc/YL7N-X96Z** (stating that DCF does not accept reports related to prescribed medication when used as directed).
217. Vt. Dep't for Child. & Fams., *Frequently Asked Questions: Vermont CAPTA Notifications* at 2 (2018), **https://perma.cc/YL7N-X96Z** ("DCF no longer accepts reports where the sole concern is regarding marijuana use during pregnancy.").
218. Vt. Dep't for Child. & Fams., *Frequently Asked Questions: Vermont CAPTA Notifications* at 2 (2018), **https://perma.cc/YL7N-X96Z** ("CAPTA notifications are not made for alcohol use."). Although DCF suggests that providers should report pregnant patients who have an active alcohol use disorder during their third trimester, Vermont law does not require this.
219. Va. Code Ann. § 63.2-1509 (defining mandated reporters and their requirements).
220. Va. Code. Ann. § 54.1-2403.1.
221. 22 Va. Admin. Code. § 40-705-40(A)(6)(a) ("For purposes of this regulation, 'affected by substance abuse' is a determination by a health care professional and may be determined by clinical indicators that include maternal and infant presentation at birth; substance use and medical histories; and include toxicology study results of the infant that are positive for illegal substances or indicate abuse of controlled substances.").
222. Va. Code Ann. § 63.2-1509(B); 22 Va. Admin Code. § 40-705-40(A)(6).
223. Va. Code Ann. § 63.2-1509(B); 22 Va. Admin. Code § 40-705-40(A)(6).
224. "However, a pregnant woman's prenatal use of a controlled substance or drug as prescribed by such woman's health care provider for opioid addiction recovery shall not solely be a reason to suspect that a child is abused or neglected." Va. Code Ann. § 63.2-1509(B). Note that a POSC notification may still be required.
225. Wash. Rev. Code § 26.44.030 (defining mandated reporters and their requirements); Wash. Rev. Code § 26.44.020(1) (defining abuse and neglect), (20) (defining negligent treatment or maltreatment). Note that the Washington Department of Children, Youth, and Families (DCYF) developed its own definitions for both substance-exposed and substance-affected newborns. *See* Wash. Dep't of Child., Youth, & Fams., *Policies and Procedures Appendix A: Definitions*, **https://perma.cc/AK6C-37TW** (last visited Aug. 16, 2026). DCYF's definitions are not state law, but they do govern state agency actions.

Citations

226. Washington state law does not explicitly require a report when a newborn is substance-exposed or substance-affected, though CAPTA notification requirements still apply to the latter. Though not supported by state law, DCYF interprets federal law to require a report in cases where a newborn is substance-exposed - though language also indicates they may not interpret exposure due to medications for opioid use disorder (MOUD) as reportable. Providers ultimately have discretion as to whether or not to report based on their concerns for a newborn's safety, and filling out a POSC using the online portal will also direct providers to report in certain circumstances. *See* Wash. Dep't of Child., Youth, & Fams., *Plan of Safe Care: Role of Birthing Hospitals*, **https://perma.cc/8AES-K625** (last visited Aug. 16, 2026); Wash. Dep't of Health, *State agencies announce changes in policy and best practices for infants and parents affected by substance use at birth* (June 26, 2023), **https://perma.cc/YF8N-U9XD**.
227. D.C. Code § 4-1321.02 (defining mandatory reporters and their responsibilities).
228. D.C. Code § 4-1321.02(d).
229. D.C. Code § 16-2301(9)(A)(viii).
230. D.C. Code § 16-2301(36) (defining a "controlled substance" as one that has "not been prescribed by a physician").
231. W. Va. Code §§ 49-1-201 (defining child abuse and neglect, along with other definitions relevant to mandatory reporting), -2-803 (defining mandated reporters and their responsibilities).
232. *See In re A.L.C.M.*, 801 S.E.2d 260, 262 (W. Va. 2017) (holding that "when a child is born alive, the presence of illegal drugs in the child's system constitutes sufficient evidence that the child is an abused and/or neglected child...."). For more on the types of investigations that occur after a newborn's positive test, see Bureau of Social Services, West Virginia Department of Human Services, Child Protective Services Policy 88-92 (March 2026), **https://perma.cc/7TJR-APWW**. Note that the West Virginia Department of Social Services manual indicates that they will investigate the family regardless of if there is a POSC notification or an actual report, though the agency indicates that if there is no evidence of "maltreatment" or safety concerns, the case will be closed immediately after the POSC creation. *Id*.
233. Wis. Stat. §§ 48.02(1)(am) (defining abuse related to prenatal substance exposure), 48.981(2) (defining who is required to report, and establishing only permissive reporting for abuse of an "unborn child"), 146.0255 (requirements for physicians who drug test an "expectant mother" or infant), 146.0257 (evaluations for a fetal alcohol spectrum disorder).
234. Wis. Stat. § 146.0255(2).
235. Wis. Stat. § 48.981(2)(d) (establishing that reporting abuse of "an unborn child" is permissive, not mandatory); *see also* Wis. Dep't of Child. & Fams., *Child Protective Services Access & Initial Assessment Standards* 15 (Jun. 2026), **https://perma.cc/5NG2-4WU2**.
236. Wis. Stat. § 146.0257(2).

Citations

237. Wis. Stat. § 48.02(1)(am). A "severe" degree of substance abuse is not legally defined.
238. Wyo. Stat. Ann. §§ 14-3-202(ii) (defining child abuse), 14-3-202(vii) (defining neglect), 14-3-205 (outlining mandated reporting obligations), 35-2-1401 (explaining requirements for a POSC); 049-0035-1 Wyo. Code. R. §§ 1-5 (data collection for POSC); 049-0035-2 Wyo. Code. R. §§ 1-4 (identifying the need for a POSC and notification procedures).
239. 049-0035-2 Wyo. Code R. § 1(a) ("Patient care teams shall universally screen all pregnant patients during each trimester of pregnancy for substance use."). For an example of bias-informed screening practices, see American College of Obstetricians & Gynecologists, *ACOG Releases New Recommendations on Cannabis Use in Pregnancy & Lactation* (Sep. 19, 2025), **https://perma.cc/A4UL-879U**.
240. 49-0035-2 Wyo. Code. R. §§ 1-4 (identifying the need for a POSC and notification procedures).
241. As with all states, Wyoming does require a POSC notification. Wyoming's POSC notification system is de-identified and only used for data reporting. *See* Wyo. Dep't of Fam. Servs., *Plan of Safe Care Notification*, **https://perma.cc/SPE4-932J** (last visited Aug. 16, 2026). *See also* 049-0035-2 Wyo. Code R. § 3(a)(i)(A) ("An initial positive toxicology of the infant[ ] at the birth event is not indicative of abuse or neglect by itself; immediate safety concern(s) must accompany the positive toxicology."). Note that Wyoming's Department of Family Services has indicated that the statute addressing child endangerment due to exposure to methamphetamines or fentanyl, Wyo. Stat. Ann. § 6-4-405, does *not* apply to fetuses. Brittney Thyarks, *Wyoming Plan of Safe Care (PoSC): Frequently Asked Questions* 7 (Feb. 12, 2026), **https://perma.cc/34NN-2AYW**.