



Reporting Requirement for Infants Affected by Substance Abuse

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This is general legal information and is not intended as legal advice. The law can change and is subject to differing interpretations. Physicians should consult their attorney if they need legal guidance on a specific situation. Nothing in this information should be construed as defining a standard of care.

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Pennsylvania’s Child Protective Services Law (CPSL) requires physicians, nurse midwives, hospitals, birth centers, and other health care providers to immediately report if they are involved in the delivery or care of a substance-exposed infant.¹

Overview of the Law

This reporting requirement applies to any child under one year of age (not including an unborn fetus) who is identified as affected by any of the following:

- Illegal substance abuse by the child's mother
- Withdrawal symptoms resulting from prenatal drug exposure unless the child's mother, during the pregnancy, had been prescribed the drug(s) by a medical professional and was compliant with the prescribing professional’s directions for administration
- Fetal Alcohol Spectrum Disorder

These reports are to be made to the appropriate county children and youth services agency. However, the Department of Human Services advises that it will forward to the county agency reports of substance-exposed infants that are made to [ChildLine](#).

When county agencies receive a report, they must conduct a safety or risk assessment to determine whether child protective services² or general protective services³ are warranted and provide or arrange reasonable services to ensure the child is provided with proper parental care, control, and supervision. County agencies must act within specified deadlines:

Timing	Required county action
Immediately	Ensure safety of child Physically see child if either emergency protective custody is needed/has been taken or whether this action is needed and is not clear from the report

Timing	Required county action
24 hours of report	Contact the parents of child
48 hours of report	Physically see child

The federal Child Abuse Prevention and Treatment Act (CAPTA)⁴ is the basis for these reporting and other requirements. CAPTA provides federal funding to states in support of prevention, assessment, investigation, prosecution, and treatment activities. To be eligible for the grants, states meet prescribed assurances and requirements.⁵

Frequently Asked Questions

1. Do physicians need to personally make the report about a substance affected infant?

No. You can satisfy the reporting requirement if you “cause a report to be made.” Health care facilities and organizations frequently have mechanisms in place to provide the mandated reports. However, it is prudent for physicians to verify that a report was made on their behalf.

2. Has Pennsylvania enacted a statute that automatically makes substance abuse during pregnancy child abuse?

The current definition of child abuse does not automatically deem substance abuse during pregnancy to be child abuse.⁶ A bill introduced in the 2013-2014 legislative session would have expanded the definition to explicitly include when a child tests positive at birth for a controlled substance unless this resulted from the mother’s lawful intake of the substance as prescribed. However, that bill was not adopted.

Additional Resources

- [Substance Abuse During Pregnancy](#)

¹ 23 Pa.C.S. § 6386.

² Child protective services are provided to victims of child abuse. See [55 Pa. Code § 3490.1 et seq.](#)

³ General protective services are provided to prevent potential harm to a child who meets certain conditions, such as being without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals. See [55 Pa. Code § 3490.201 et seq.](#)

⁴ 42 U.S.C. § 5101 *et seq.*

⁵ *Id.* at § 5106(b)(2)(B).

⁶ 23 Pa.C.S. at § 6303(b.1). See also Joint State Government Commission, [Report of the Task Force on Child Protection](#) (November 2012)(referencing prior definition: “In Pennsylvania, the mere existence of drug or alcohol abuse by a pregnant woman is not considered child abuse”), p. 30; 18 Pa.C.S. § 2608(a)(3)(criminal statutes imposing liability for certain crimes against an unborn child – criminal homicide, murder, voluntary manslaughter, and aggravated assault – do not impose liability to pregnant women with respect to their unborn child.