

MANDATORY REPORTING OF PRENATAL NEGLECT

A CHANGE IN THE LAW

Act 396 of the 2007 Louisiana Legislative Session revised the Children's Code definition of prenatal neglect. The definition of prenatal drug exposure and the "chronic or severe use of alcohol" was added to the definition.

As a result of Act 396, a newborn with observable and harmful effects in his appearance or functioning (due to drug exposure), is accepted as a report of prenatal neglect, even if blood, urine, or meconium tests results are negative.

HISTORY OF THE LAW

Act 338 of the 2005 Louisiana Legislative Session modified Article 603 of the Louisiana Children's Code. Act 338 was enacted to bring Louisiana into compliance with the Child Abuse and Prevention Treatment Act (CAPTA) amendment that requires states to develop policies and procedures to address the needs of newborns identified as being affected by illegal use of a controlled dangerous substance, including a requirement that health care providers/practitioners involved in the delivery or care of such infants notify Child Protection (Office of Community Services, OCS).

Once reported, the Office of Community Services conducts an investigation and develops a plan of safe care for the infant, in conjunction with the family, the health care providers and substance abuse experts. Interventions to reduce adverse outcomes and promote healthy home environments are critical to the well being of children exposed to substances in utero.



MANDATED REPORTERS

Physicians are mandated to make a report to their local Child Protection Intake, Office of Community Services (OCS), whenever an infant meets the criteria for prenatal neglect.

DEFINITION OF PRENATAL NEGLECT

"Prenatal neglect" means exposure to chronic or severe use of alcohol or the unlawful use of any controlled, dangerous substance, as defined by R.S. 40:961 et seq., or in a manner not lawfully prescribed, which results in symptoms of withdrawal in the newborn or the presence of a controlled substance or a metabolic thereof in his body, blood, urine, or meconium, that is not result of medical treatment or observable and harmful effects in his physical appearance or function.

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

REPORTING PROCEDURE

Children's Code Article 610(G) states: "If a physician has cause to believe that a mother of an infant unlawfully used during pregnancy a controlled dangerous substance, as defined by R.S. 40:961 et seq., the physician shall order a toxicology test upon the infant, without the consent of the infant's parents or guardian, to determine whether there is evidence of prenatal neglect. If the test results are positive, the physician shall report the result, as soon as possible in accordance with this Article. If the test results are negative, all identifying information shall be obliterated if the record is retained, unless the parent approves the inclusion of identifying information. Positive test results shall not be admissible in a criminal prosecution."



REQUIRED ELEMENTS OF A REPORT*

ALCOHOL AFFECTED NEWBORNS

- Victim (newborn) must be age 30 days or less **and**;
- Newborn must have either withdrawal symptoms or positive alcohol screen through blood, urine, or meconium test **or** have observable and harmful effects in his physical appearance or functioning; **and**,
- Mother must have used alcohol chronically or severely during pregnancy.

DRUG AFFECTED NEWBORNS

- Victim (newborn) must be age 30 days or less **and**;
- Newborn must have either withdrawal symptoms or positive alcohol screen through blood, urine, or meconium test **or** have observable and harmful effects in his physical appearance or functioning; **and**,
- Mother must have unlawfully used a controlled dangerous substance, or in a manner not lawfully prescribed, during pregnancy.

* When the child was exposed to drugs or alcohol in utero and they are over 30 days, the current condition and care of the child must meet the definition of child abuse/neglect.

REPORTING LIABILITY

State law protects the identity of all mandated reporters, and you are given immunity from legal liability as a result of reports you make in good faith.¹ The reporting form can be downloaded at:

<http://www.dss.state.la.us/Documents/OCS/CPI-2.pdf>

Willful failure to report suspected incidents of child abuse or neglect is a misdemeanor, and you may be subjected to a fine of not more than \$500 dollars or imprisoned for not more than six months, or both.²

¹ Children's Code Article 609(A)(2)

² LSA-R.S. 14:403(A)(1)



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CHILD PROTECTION NUMBERS

PARISH	PHONE
ACADIA	337-788-7503
ALLEN	318-335-1740
ASCENSION	225-644-4603
ASSUMPTION	985-447-0945
AVOUELLES	318-253-7734
BEAUREGARD	337-463-2056
BIENVILLE	318-371-3004
BOSSIER	318-741-7340
CADDO	318-676-7622
CALCASIEU	337-491-2545
CALDWELL	318-262-5311
CAMERON	337-491-2545
CATAHOULA	318-339-6030
CLAIBORNE	318-371-3004
CONCORDIA	318-757-3667
DESOTO	318-872-6311
EAST BATON ROUGE	225-925-4571
EAST CARROLL	318-559-3664
EAST FELICIANA	225-683-3734
EVANGELINE	337-363-6011
FRANKLIN	318-362-3062
GRANT	318-627-3000
IBERIA	337-373-0026
IBERVILLE	225-687-4373
JACKSON	318-251-4101
JEFFERSON (EAST)	504-736-7033
JEFFERSON (WEST)	504-361-6083
JEFFERSON DAVIS	337-824-9649
LAFAYETTE	337-262-5244
LAFOURCHE	985-447-0945
LASALLE	318-339-6030
LINCOLN	318-251-4101
LIVINGSTON	225-686-7257
MADISON	318-574-5201
MOREHOUSE	318-283-0820
NATCHITOCHE	318-357-3128
ORLEANS	504-680-9000
OUACHITA	318-362-5311
PLAQUEMINES	504-361-6083
POINTE COUPEE	225-638-4846
RAPIDES	318-487-5116
RED RIVER	318-357-3128
RICHLAND	318-728-3037
SABINE	318-256-4104
ST BERNARD	504-736-7033
ST CHARLES	985-652-2938
ST HELENA	985-748-2001
ST JAMES	985-652-2938
ST JOHN	985-652-2938
ST LANDRY	337-942-0050
ST MARTIN	337-394-6081
ST MARY	337-828-5278
ST TAMMANY	985-893-6225
TANGIPAHOA	985-748-2001
TENSAS	318-766-3998
TERREBONNE	985-857-3634
UNION	318-368-7917
VERMILION	337-898-1430
VERNON	337-238-3098
WASHINGTON	985-732-6800
WEBSTER	318-371-3004
WEST BATON ROUGE	225-687-4373
WEST CARROLL	318-728-3037
WEST FELICIANA	225-683-3734
WINN	318-648-6805



MANDATORY REPORTING OF PRENATAL NEGLECT

ALCOHOL AND DRUG AFFECTED NEWBORNS



OFFICE OF COMMUNITY SERVICES CHILD PROTECTION INVESTIGATION