

## Reporting/Notification Requirements

**Physicians** are mandated to make a **report** of suspected prenatal neglect to the Child Protection Hotline by calling 1-855-4LA-KIDS (1-855-452-5437).

**Physicians** are required to **notify** the Department of a newborn exhibiting withdrawal symptoms or other observable and harmful effects in his physical appearance of a controlled dangerous substance used in a lawfully prescribed manner by the mother during pregnancy. This notification shall be made through the completion of the form, "Physician Notification of Substance Exposed Newborns - No Prenatal Neglect Suspected." This form can be found on the DCFS website at [www.dcf.la.gov](http://www.dcf.la.gov) and should be faxed to (225) 342-7768.

If laboratory results are not known at the time of the newborn's discharge from the hospital, to determine whether prenatal neglect is suspected or the newborn was affected by a legally prescribed, appropriately used substance, the physician shall make a **report** of suspected prenatal neglect.

### Reporting Liability

#### Reporting of Prenatal Neglect

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.<sup>1</sup>

Willful failure to report suspected incidents of child abuse or neglect is a misdemeanor, punishable by a fine of up to \$500 and/or imprisonment of up to six months.<sup>2</sup>

#### Physician Notification - No Prenatal Neglect

A physician who in good faith makes a notification to DCFS shall have no civil or criminal liability for damage or injury arising from that notification, unless the damage or injury was caused by the physician's willful or wanton misconduct or gross negligence.<sup>3</sup>

<sup>1</sup> Children's Code Article 611; LA R.S. 46:56

<sup>2</sup> LSA-R.S. 14:403(A)(1)

<sup>3</sup> LSA-R.S. 40:1086.11



# Substance Exposed Newborns

## Mandatory Reporting and Notifications



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# ADDRESSING THE NEEDS OF SUBSTANCE EXPOSED NEWBORNS



## Overview of the Law

The Comprehensive Addiction and Recovery Act, along with the Child Abuse Prevention and Treatment Act it amended, guides Louisiana's laws addressing the needs of substance exposed newborns.

Federal legislation requires that states address the needs of newborns affected by both legal and illegal substances. Prior to 2017, legislation required states to address only infants affected by the use of illegal substances and alcohol.

Louisiana's approach to addressing the needs of substance exposed newborns is multi-faceted but primarily focuses on two approaches:

1. Defining and addressing prenatal neglect, including reporting mechanisms and investigative protocols by the Department of Children and Family Services (DCFS); and

2. Implementing a process for notifying DCFS of those newborns not suspected of prenatal neglect but exhibiting withdrawal symptoms as a result of exposure to legally prescribed, lawfully used controlled dangerous substances.

## Definitions

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

"Prenatal Neglect" means 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 the result of medical treatment, or observable and harmful effects in his physical appearance or functioning.

A "Mandatory Reporter" is any of the following individuals: a health practitioner; mental health/social service practitioner; member of the clergy; teacher or child care provider; police or law enforcement officer; commercial film or photographic print processor; mediator; parenting coordinator; court-appointed special advocate volunteer; organizational or youth activity provider; and/or school coach.

"Physician Notification Form" is the mechanism to provide notification to DCFS of a newborn who exhibits symptoms of withdrawal, or other observable and harmful effects in his physical appearance or functioning, that a physician believes are due to the use of controlled dangerous substance, as defined by R.S. 40:961 et seq., in a lawfully prescribed manner by the mother during pregnancy. This notification shall not constitute a report of child abuse or prenatal neglect, nor shall it require prosecution for any illegal action.



## Required Elements of a Prenatal Neglect Report

### Alcohol Affected Newborns

- Newborn must be 30 days old 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.

### Drug Affected Newborns

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

## Decision Points

- If a physician has cause to believe that the newborn was exposed in-utero to an unlawfully used controlled dangerous substance, then the physician must order a toxicology test on the newborn without the parent's consent to determine if prenatal neglect is suspected. If the test results are positive, the physician must make a **report** of suspected prenatal neglect.
- If the newborn exhibits symptoms of withdrawal or other observable and harmful effects that are due to chronic or severe use of alcohol by the mother, or due to Fetal Alcohol Spectrum Disorder, the physician must make a **report** of suspected prenatal neglect.
- If prenatal neglect is suspected, but test results cannot confirm exposure to an unlawfully or lawfully used substance prior to the newborn's discharge from the hospital, the physician must make a **report** of suspected prenatal neglect.
- If the newborn exhibits withdrawal symptoms that are believed to be due to the mother's use of a controlled dangerous substance in a lawfully prescribed manner, without suspicion of prenatal neglect, the physician must submit a **Physician Notification Form**.