



STATE STATUTES
CURRENT THROUGH SEPTEMBER 2024

Parental Substance Use as Child Maltreatment

To find statute information for a particular State, Territory, or Tribe, go to the [State Statutes Search](#) page on the Child Welfare Information Gateway website.

Substance use disorders (SUDs)—including the misuse of drugs or alcohol—that affect parents and other caregivers can have negative effects on the health, safety, and well-being of children. All States, the District of Columbia, Guam, the U.S. Virgin Islands, and some Tribes¹ have provisions within their child protection statutes, regulations, policies, or Tribal codes that address substance use by parents. One major concern is responding to the care and treatment needs of infants exposed to substances. Another major concern is addressing the harm that a child of any age can suffer when a parent's use of alcohol or other substances leads to neglect of the child or the child's exposure to illegal

drug activity. This publication is based on an analysis of the statutes, regulations, policies, and Tribal codes regarding requirements for responding to reports of children affected by parental substance use that were collected from all States, the District of Columbia, the U.S. Territories, and Tribes with approved title IV-E programs.

WHAT'S INSIDE

Infants exposed to substances

Children exposed to parental substance use

¹ The Aleut Community of St. Paul Island, Cherokee Nation, Eastern Band of Cherokee Indians, Keweenaw Bay Indian Community, Penobscot Nation, and Port Gamble S'Klallam Tribe

INFANTS EXPOSED TO SUBSTANCES

The Child Abuse Prevention and Treatment Act requires States to operate programs relating to child abuse and neglect that include the following:

- Policies and procedures—including appropriate referrals to child protection service (CPS) systems and for other appropriate services—to address the needs of infants born with and identified as being affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder (FASD), including a requirement that health-care providers involved in the delivery or care of such infants notify the CPS system of the occurrence of such condition in such infants²
- The development of a plan of safe care for the infant born and identified as being affected by substance use or withdrawal symptoms or an FASD to ensure the safety and well-being of such infant following their release from the care of health-care providers, including through addressing the health and SUD treatment needs of the infant and affected family or caregiver³

The requirement to respond to the needs of infants exposed to substances is addressed in various ways in laws, policies, and codes. The child abuse and neglect reporting laws in approximately 35 States, the District of Columbia, and the Penobscot Nation specifically require health-care providers to report when they treat infants who show evidence at birth of having been adversely affected by exposure to drugs, alcohol, or other controlled substances.⁴ In nine States and the Keweenaw Bay Indian Community, a report is not required when the infant's exposure is a result of the mother's use of a medication prescribed by a physician.⁵ In 27 States, 5 Tribes, and the District of Columbia, prenatal exposure to controlled substances is included in definitions of child abuse or neglect in civil statutes, regulations, agency policies, or Tribal codes.⁶ Nine States require mandated reporters to report when they suspect that a pregnant person is misusing substances so that the person can be referred for treatment.⁷ In 12 States, a report may be made when a person gives birth to an infant whose symptoms or laboratory test results indicate prenatal exposure to substances, but an investigation will be conducted only if there is an allegation of abuse and/or neglect of the infant or other children in the home.⁸

² 42 U.S.C. § 5106a(b)(2)(B)(ii)-(iii), as amended by the Comprehensive Addiction and Recovery Act of 2016 (P.L. 114-198). For more information on these issues, visit the [National Center on Substance Abuse and Child Welfare website](#).

³ For more information on the requirements for plans of safe care, see Child Welfare Information Gateway's [Plans of Safe Care for Infants With Prenatal Substance Exposure and Their Families](#).

⁴ The word "approximately" is used to stress the fact that States frequently amend their laws and applies to all data in this publication. The information in this publication is current only through September 2024. Alaska, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Virginia, West Virginia, and Wisconsin have enacted specific reporting procedures for infants exposed to substances.

⁵ Illinois, Kentucky, Maryland, Minnesota, North Dakota, Oregon, Texas, Vermont, and Wisconsin

⁶ Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Louisiana, Maryland, Minnesota, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, the Aleut Community of St. Paul Island, Cherokee Nation, Keweenaw Bay Indian Community, Penobscot Nation, and Port Gamble S'Klallam Tribe

⁷ Illinois, Kentucky, Maryland, Minnesota, North Dakota, Oregon, Texas, Vermont, and Wisconsin

⁸ California, Colorado, Connecticut, Delaware, Idaho, Mississippi, Nebraska, New Jersey, New York, North Carolina, Rhode Island, and Tennessee

In many jurisdictions, the actions that child welfare agencies must take in response to reports of infants exposed to substances are focused on providing treatment and support so that the infants are able to stay with their mothers. For example, 19 States and the District of Columbia require the agency to complete a needs assessment for the infant and for the infant's family and to make a referral to appropriate services.⁹

CHILDREN EXPOSED TO PARENTAL SUBSTANCE USE

Child welfare professionals are also often concerned about the negative effects on children when parents or other members of the household use alcohol or drugs (either legal or illegal) or engage in illegal drug-related activity, such as the manufacture of methamphetamines in home-based laboratories. Many jurisdictions have responded to this problem by expanding civil definitions of child abuse or neglect to include this concern. Specific circumstances that are considered child abuse or neglect in some States, Territories, and Tribes include the following:

- Manufacturing a controlled substance in the presence of a child or on premises occupied by a child (in 13 States,¹⁰ the

District of Columbia, and the Eastern Band of Cherokee Indians)

- Exposing a child to or allowing a child to be present where chemicals or equipment for the manufacture of controlled substances are used or stored (in 11 States¹¹)
- Selling, distributing, or giving drugs or alcohol to a child (in 9 States,¹² the District of Columbia, Guam, and the Port Gamble S'Klallam Tribe)
- Using a controlled substance that impairs the caregiver's ability to adequately care for the child (in 18 States,¹³ the Virgin Islands, and the Eastern Band of Cherokee Indians)
- Exposing a child to the criminal sale or distribution of drugs (in 7 States¹⁴ and the District of Columbia)

Approximately 33 States and the Virgin Islands address the issue of exposing children to illegal drug activity in their criminal statutes.¹⁵ For example, in 21 States the manufacture or possession of methamphetamine in the presence of a child is a felony,¹⁶ while in 18 States, the manufacture or possession of any controlled substance in the presence of a child is considered a felony.¹⁷ Twelve States have enacted enhanced penalties for any conviction for the manufacture of methamphetamine when a child was on the premises where the crime occurred.¹⁸

⁹ Arkansas, California, Connecticut, Illinois, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, Nevada, New Jersey, New Mexico, North Carolina, Oklahoma, Pennsylvania, Rhode Island, Virginia, and Washington

¹⁰ Arkansas, Colorado, Indiana, Iowa, Montana, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Wisconsin

¹¹ Arizona, Arkansas, Connecticut, Illinois, Iowa, New Mexico, North Dakota, Oklahoma, Oregon, West Virginia, and Wyoming

¹² Arkansas, Connecticut, Florida, Hawaii, Illinois, Iowa, Minnesota, Oklahoma, and Texas

¹³ Alaska, California, Delaware, Florida, Iowa, Kansas, Kentucky, Minnesota, Mississippi, New York, Oklahoma, Rhode Island, Tennessee, Texas, Vermont, Washington, West Virginia, and Wyoming

¹⁴ Iowa, Montana, Oklahoma, South Dakota, Vermont, Virginia, and Wyoming

¹⁵ Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Utah, Virginia, Washington, West Virginia, and Wyoming

¹⁶ California, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Missouri, Montana, Nebraska, New Hampshire, Ohio, Oklahoma, Pennsylvania, South Carolina, Virginia, Washington, West Virginia, and Wyoming

¹⁷ Alabama, Alaska, Arizona, California, Colorado, Hawaii, Idaho, Indiana, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, New Mexico, North Dakota, Ohio, Oregon, and Utah

¹⁸ Arkansas, California, Hawaii, Indiana, Kansas, Mississippi, Montana, North Carolina, Ohio, Utah, Virginia, and Washington

Exposing children to the manufacture, possession, or distribution of illegal drugs is considered child endangerment in 16 States.¹⁹ The exposure of a child to drugs or drug paraphernalia is a crime in nine States.²⁰ While the foregoing crimes generally apply to a child's parent or caregiver, in Montana, North Carolina, and Wyoming, selling or giving an illegal drug to a child by any person is a felony.

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This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

¹⁹ Alabama, Alaska, Arizona, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Mississippi, Missouri, Montana, Utah, Washington, and Wyoming

²⁰ Alabama, Arkansas, Kansas, Montana, Nebraska, New Hampshire, North Dakota, South Carolina, and Utah



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Administration for Children and Families
Administration on Children, Youth and Families
Children's Bureau



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