
DIGEST

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HB 479 Original

2017 Regular Session

Horton

Abstract: Revises the definition of "prenatal neglect" and requirements for reporting thereof.

Present law relative to reporting of child abuse (Ch. C. Art. 601 et seq.) defines "prenatal neglect" to mean the unlawful use by a mother during pregnancy of a controlled dangerous substance, as defined by present law, which results in symptoms of withdrawal in the infant or the presence of a controlled substance in the infant's body.

Proposed law revises the definition of "prenatal neglect" to mean exposure to chronic or severe use of alcohol or the unlawful use of any controlled dangerous substance, as defined by present law, or in a manner not lawfully prescribed, which results in symptoms of withdrawal in the newborn, observable and harmful effects in the physical appearance or functioning of the newborn, or the presence of a controlled substance or a metabolic thereof in the newborn's body, blood, urine, or meconium that is not the result of medical treatment, as indicated by the treating physician.

Present law provides requirements relative to medical identification of prenatal neglect and reporting thereof by physicians.

Proposed law revises present law to establish the following procedure for medical identification and reporting by physicians of prenatal neglect:

- (1) If a physician who is involved in the delivery or care of a newborn has cause to believe that the newborn was exposed in utero to a controlled dangerous substance, as defined by present law, in a manner not lawfully prescribed, the physician shall order a toxicology test upon the newborn, without the consent of the newborn's parents or guardian, to determine whether there is evidence of prenatal neglect.
- (2) If there is evidence of prenatal neglect, the physician shall report the results, as soon as possible, following the applicable procedure provided present law.
- (3) If there is no evidence of prenatal neglect, all identifying information shall be obliterated if the record is retained, unless the parent approves the inclusion of identifying information. Present law and proposed law provide that positive test results shall not be admissible in a criminal prosecution.
- (4) If there are symptoms of withdrawal in the newborn or other observable and harmful effects in his physical appearance or functioning, the physician shall make a report consistent with

the applicable procedure provided present law if he has cause to believe such condition is due either to the chronic or severe use of alcohol by the mother during pregnancy, or to the effects of fetal alcohol spectrum disorder.

- (5) If there are symptoms of withdrawal in the newborn or other observable and harmful effects in his physical appearance or functioning that the physician believes is due to the use of a controlled dangerous substance, as defined by present law, in a lawfully prescribed manner by the mother during pregnancy, the physician shall make a notification to the Dept. of Children and Family Services. Such notification shall include an assurance that a plan of safe care has been or will be developed prior to discharge from the hospital to ensure the safety of the newborn and caretaker. The plan of safe care shall, at a minimum, address the health and substance use disorder treatment needs of the newborn and the affected family or caretaker.

Proposed law stipulates that no cause of action shall exist against an individual who in good faith develops a plan of safe care or a plan to monitor such plan. Provides that such individual shall have immunity from any civil or criminal liability that otherwise might be incurred or imposed.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends Ch. C. Arts. 603(24) and 610(G))