

FACT SHEET



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Support Mom/Baby in Pregnancy with Substance Exposure

Patrons: Senator Locke and Delegate Hayes
SB133/HB652

Problem: Fear of a child protective services referral means Virginia moms do not seek prenatal care. This finding is supported by research; threat-based approaches discourage care.¹ Early entry into prenatal care improves outcomes. **This is a bill to encourage pregnant moms to enter prenatal care.**

Virginia's law currently implies child abuse when an infant is born affected by substance use. The language automatically links prenatal substance exposure with child abuse or neglect, even when the mother is engaged in medicated assisted treatment (MAT), or when the substance involved, such as cannabis, has been decriminalized. This punitive section of code refers solely to the child, ignoring the best practice method of supporting the mother/baby together. Substance use in the Virginia code does not have a uniform definition, *which results in inconsistent implementation of this law and mandatory reporting when there is no risk of harm to the child.* Research reports that maternal race and ethnicity, substance type and socioeconomic status affect whether or not a child protective services report will be made.²

Providers and community members report the current code discourages pregnant individuals from seeking prenatal care, increasing risk. Organizations like the American College of Obstetrics and Gynecology (ACOG) and the Centers for Disease Control (CDC) recommend avoiding labeling prenatal exposure as abuse/neglect by default and emphasize treatment access and family preservation. Public health experts and federal guidance (CAPTA) recommend a Plan of Safe Care approach,

focusing on treatment and family support rather than punitive action.

Policy solution: This is a section 1 bill that will bring state agencies and stakeholders together to evaluate the Commonwealth's response to and services available to address parental prenatal and postnatal substance use and the effects of such substance use on newborns and children. The group will review current practices and determine whether changes in statute, regulation, or guidance are necessary to meet the needs of families, emphasize preservation of the mother-infant dyad and ensure the safety of children. The group's work will include addressing service and data gaps, Plans of Safe Care, opportunities for training as well as current inconsistencies in implementation.

Costs: The current code encourages inconsistent implementation and does not address the development and use of Plans of Safe Care under the *Federal Child Abuse Prevention and Treatment Act*. This critical evaluation work should be covered by the agency budget. Federal funding exists to support family-based care. Virginia should consider using Opiate Abatement funding to increase support for these services.

Who benefits: This work will move us towards an evidence-based system that delivers better outcomes for moms and babies. When we explicitly work to support healthy moms and babies, we all benefit.

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¹ https://www.pregnancyjusticeus.org/wp-content/uploads/2020/11/Understanding-CAPTA-and-State-Obligations_2020.pdf

² <https://pubmed.ncbi.nlm.nih.gov/40118246/>