

## STATE OF MAINE

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 IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

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 H.P. 1293 - L.D. 1816

**An Act To Ensure the Safety and Well-being of Infants Affected by  
Substance Exposure**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 22 MRSA §4002, sub-§5-B**, as enacted by PL 2013, c. 192, §1, is amended to read:

**5-B. Fetal alcohol spectrum disorder.** "Fetal alcohol spectrum ~~disorders~~ disorder" means ~~conditions~~ a condition whose effects include having facial characteristics, growth restriction, central nervous system abnormalities or other characteristics consistent with prenatal alcohol exposure identified in a child from birth to 12 months of age.

**Sec. 2. 22 MRSA §4004-B**, as amended by PL 2017, c. 407, Pt. A, §83, is further amended to read:

**§4004-B. Infants born affected by substance use disorder or after prenatal exposure to drugs or with a fetal alcohol spectrum disorder**

The department shall act to protect infants born identified as being affected by ~~illegal~~ substance use, ~~demonstrating~~ or withdrawal symptoms resulting from prenatal drug exposure, whether the prenatal exposure was to legal or illegal drugs, or having a fetal alcohol spectrum ~~disorders~~ disorder, regardless of whether the infant is abused or neglected. The department shall:

**1. Receive notifications.** Receive notifications of infants who may be affected by ~~illegal~~ substance use or ~~demonstrating~~ withdrawal symptoms resulting from prenatal drug exposure or who have a fetal alcohol spectrum ~~disorders~~ disorder;

**2. Investigate.** Promptly investigate notifications received of infants born who may be affected by ~~illegal~~ substance use or ~~demonstrating~~ withdrawal symptoms resulting from prenatal drug exposure or who have a fetal alcohol spectrum ~~disorders~~ disorder as determined to be necessary by the department to protect the infant;

**3. Determine if infant is affected.** Determine whether each infant for whom the department conducts an investigation is affected by ~~illegal~~ substance use, ~~demonstrates~~ or withdrawal symptoms resulting from prenatal drug exposure or has a fetal alcohol spectrum disorders disorder;

**4. Determine if infant is abused or neglected.** Determine whether the infant for whom the department conducts an investigation is abused or neglected and, if so, determine the degree of harm or threatened harm in each case;

**5. Develop plan for safe care.** For each infant ~~whom~~ who the department determines to be affected by ~~illegal~~ substance use, ~~to be demonstrating~~ or withdrawal symptoms resulting from prenatal drug exposure or ~~to have~~ who has a fetal alcohol spectrum ~~disorders~~ disorder, develop, with the assistance of any health care provider involved in the ~~mother's caregiver's~~ or the child's medical or mental health care, a plan for the safe care of the infant and, in appropriate cases, refer the child or ~~mother~~ caregiver or both to a social service agency, a health care provider or a voluntary substance use disorder prevention service; ~~and~~ . For purposes of this subsection, "health care provider" means a person described in section 4011-A, subsection 1, paragraph A, subparagraphs (1) to (10), (15), (17) to (20) or (22); and

**6. Comply with section 4004.** For each infant ~~whom~~ who the department determines to be abused or neglected, comply with section 4004, subsection 2, paragraphs E and F.

**Sec. 3. 22 MRSA §4011-B**, as amended by PL 2017, c. 407, Pt. A, §84, is further amended to read:

**§4011-B. Notification of prenatal exposure to drugs or having a fetal alcohol spectrum disorder**

**1. Notification of prenatal exposure to drugs or having a fetal alcohol spectrum disorder.** A health care provider involved in the delivery or care of an infant who the provider knows or has reasonable cause to suspect has been born affected by ~~illegal~~ substance use, ~~is demonstrating~~ has withdrawal symptoms that require medical monitoring or care beyond standard newborn care when those symptoms have resulted from or have likely resulted from prenatal drug exposure, whether the prenatal exposure was to legal or illegal drugs, or has a fetal alcohol spectrum disorders disorder shall notify the department of that condition in the infant. The notification required by this subsection must be made in the same manner as reports of abuse or neglect required by this subchapter.

A. This section, and any notification made pursuant to this section, may not be construed to establish a definition of "abuse" or "neglect."

B. This section, and any notification made pursuant to this section, may not be construed to require prosecution for any illegal action, including, but not limited to, the act of exposing a fetus to drugs or other substances.

**2. Definition.** For purposes of this section, "health care provider" means a person described in section 4011-A, subsection 1, paragraph A, subparagraphs (1) to (10), (15),

(17) to (20) or (22) or any person who assists in the delivery or birth of a child for compensation, including, but not limited to, a midwife.