



Funded by the Substance Abuse and Mental Health Services Administration (SAMHSA) and the Administration on Children, Youth and Families (ACYF), Children's Bureau

## **Child Abuse and Prevention Treatment Act (CAPTA) Substance Exposed Infants Statutory Summary**

**The Keeping Children and Families Safe Act of 2003** created new conditions for states to receive grant allocations under the Child Abuse and Prevention Treatment Act (CAPTA). The grant conditions were intended to provide needed services and support for infants, their mothers, and their families, and to ensure a comprehensive response to the effects of prenatal drug exposure.

The committee report on the House version of the Keeping Children and Families Safe Act (H.R. 14, 2003) stated that the requirement was intended to “identify infants at risk of child abuse and neglect so appropriate services can be delivered to the infant and mother to provide for the safety of the child.”

The authors of this bill called for: “... the development of a safe plan of care for the infant under which consideration may be given to providing the mother with health services (including mental health services), social services, parenting services, and substance abuse prevention and treatment counseling, and to providing the infant with referral to the statewide early intervention program funded under part C of the Individuals with Disabilities Education Act for an evaluation for the need for services provided under part C of such Act.”<sup>1</sup>

The legislation required that governors of states receiving a CAPTA grant assure the federal government that they have policies and procedures for the following:

- Appropriate referrals to child protection service systems and for other appropriate services, to address the needs of infants born with and identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure
- A requirement that health care providers involved in the delivery or care of such infants notify the child protective services system of the occurrence of such condition except that such notification shall not be construed to establish a definition under federal law of what constitutes child abuse or require prosecution for any illegal action
- A plan of safe care for the infant born with and identified as being affected by illegal substance abuse or withdrawal symptoms
- Immediate screening, risk and safety assessment, and prompt investigation of such reports

**The CAPTA Reauthorization Act of 2010 made further changes** related to prenatal exposure issues to include identification of infants affected by Fetal Alcohol Spectrum Disorder (FASD) and a requirement for the development of Plans of Safe Care for infants affected by FASD.<sup>2</sup> It also added the following reporting requirements to the Annual Progress and Services Report:

- The number of children referred to a child protective services system born with and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure or FASD
- The number of children involved in a substantiated case of abuse or neglect determined to be eligible for referral, and the number of children referred to agencies providing early intervention services under Part C of the Individuals with Disabilities Education Act

**The Comprehensive Addiction and Recovery Act (CARA) of 2016** went into effect July 22, 2016, including Title V, Section 503, “Infant Plan of Safe Care.” The legislation (PL 114-198) makes several changes to CAPTA. The law:

- Removes the term “illegal” in regard to substance abuse
- Requires that Plans of Safe Care address the needs of both the infant and the affected family or caregiver
- Specifies that data on affected infants and Plans of Safe Care be reported by states to the maximum extent practicable. Such data includes:
  - The number of infants identified as being affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure, or FASD
  - The number of infants for whom a plan of safe care was developed
  - The number of infants for whom referrals were made for appropriate services— including services for the affected family or caregiver
- **Requires that states develop and implement monitoring systems regarding the implementation of such plans to determine whether and in what manner local entities are providing, in accordance with state requirements, referrals to and delivery of appropriate services for the infant and affected family or caregiver**

The 2016 changes were made in the context of attention generated by the nation’s prescription drug and opioid epidemic, which has focused state agencies on the requirement to implement a Plan of Safe Care for these infants.

---

<sup>1</sup> H.R. 14, Keeping Children and Families Safe Act of 2003. +Retrieved from <https://www.congress.gov/bill/108th-congress/house-bill/14/text?q=%7B%22search%22%3A%5B%22HR+14+keeping+children+and+families+safe+act+2003%22%5D%7D&resultIndex=4&overview=open#content>

Signed into Public Law (PL 108-36; S.342, Keeping Children and Families Safe Act of 2003) on June 25, 2003.

Retrieved from

<https://www.congress.gov/bill/108th-congress/senate-bill/342?q=%7B%22search%22%3A%5B%22HR+14+keeping+children+and+families+safe+act+2003%22%5D%7D&resultIndex=5>

<sup>2</sup> In 2010, the law was amended to include the needs of infants born with and identified as being affected by *illegal* substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder.

PL 111-320, CAPTA Reauthorization Act of 2010, signed into Public Law on December 20, 2010.

Retrieved from

<https://www.congress.gov/bill/111th-congress/senate-bill/3817?q=%7B%22search%22%3A%5B%22P.L.+111->