

HB 6186: An Act Concerning Medical Records Pertaining to Prenatal Care and Mandated Reports

Proposed legislation for the 2025 Session for the benefit of Mother's and their newborns

Proposed Bill is an Addendum to existing law

§ 17a-101d. Contents of reports

All reports required pursuant to [sections 17a-101a to 17a-101c](#), inclusive, and [section 17a-103](#), shall contain, if known: (1) The names and addresses of the child and his or her parents or other person responsible for his or her care; (2) the age of the child; (3) the gender of the child; (4) the nature and extent of the child's injury or injuries, maltreatment or neglect; (5) the approximate date and time the injury or injuries, maltreatment or neglect occurred; (6) information concerning any previous injury or injuries to, or maltreatment or neglect of, the child or his or her siblings; (7) the circumstances in which the injury or injuries, maltreatment or neglect came to be known to the reporter; (8) the name of the person or persons suspected to be responsible for causing such injury or injuries, maltreatment or neglect; (9) the reasons such person or persons are suspected of causing such injury or injuries, maltreatment or neglect; (10) any information concerning any prior cases in which such person or persons have been suspected of causing an injury, maltreatment or neglect of a child; and (11) whatever action, if any, was taken to treat, provide shelter or otherwise assist the child. For purposes of this section, “child” includes any victim described in [subdivision \(2\) of subsection \(a\) of section 17a-101a](#). **Any report made concerning a newborn as may be required pursuant to [sections 17a-101a to 17a-101c](#), inclusive, and [section 17a-103](#) shall not disclose prenatal medical records.**

What does this proposed Bill do?

- Encourages women to seek and actively engage in prenatal care
- Helps offset some of the racial biases in hospital reporting to DCF
- Helps decrease amount of frivolous DCF reports investigated
- Provide much needed clarification of the legal requirements for mandated reporters
- Ensure confidentiality in prenatal medical records and provide pregnant women the dignity that the rest of adult society enjoys
- Help shift harmful cultural norms re: motherhood

Is substance use during pregnancy abuse
and neglect under the law?

(Its complicated.....)

Louisiana Statute 603 (24)

"Prenatal neglect" means exposure to chronic or severe use of alcohol or the unlawful use of any controlled dangerous substance, as defined by R.S. 40:961 et seq., or in a manner not lawfully prescribed, which results in symptoms of withdrawal in the newborn or the presence of a controlled substance or a metabolic thereof in his body, blood, urine, or meconium that is not the result of medical treatment, or observable and harmful effects in his physical appearance or functioning.

Arkansas Statute 12-18-103 (b)

"Neglect" shall also include:

(a) Causing a child to be born with an illegal substance present in the child's bodily fluids or bodily substances as a result of the pregnant mother's knowingly using an illegal substance before the birth of the child; or

(b) At the time of the birth of a child, the presence of an illegal substance in the mother's bodily fluids or bodily substances as a result of the pregnant mother's knowingly using an illegal substance before the birth of the child.

Connecticut Statute 46b-120

A child may be found “neglected” who, for reasons other than being impoverished, (A) has been abandoned, (B) is denied proper care and attention, physically, educationally, emotionally or morally, of (C) is permitted to live under conditions, circumstances or associations injurious to the well-being of the child.

Connecticut Statute 21a-422a

The presence of cannabinoid metabolites in the bodily fluids of a person:

.....(2) With respect to a parent or legal guardian of a child or newborn infant, or a pregnant woman, shall not form the sole or primary basis for any action or proceeding by the Department of Children and Families, or any successor agencies provided, nothing in this subdivision shall preclude any action or proceeding by such department based on harm or risk of harm to a child or the use of information on the presence of cannabinoid metabolites in the bodily fluids of any person in any action or proceeding.

DCF Investigation: The Careline has accepted a report of abuse or neglect against an adult caretaker of a child or children. A DCF caseworker will be assigned to the adult caretaker and at the end of a 45-day investigation that caseworker may 1. find the adult caretaker guilty of abuse or neglect, 2. find the adult caretaker not guilty of abuse or neglect and/ or 3. refer the matter to DCF's "ongoing services."

VS.

DCF Substantiation: After a 45 day investigation (or as part of ongoing services) DCF has determined an adult caretaker was guilty of abuse or neglect. Can lead to placement on DCF's Central Registry-a database of perpetrators of abuse and neglect. While a court order is needed for the ongoing removal of a child or children, no court order is needed for DCF to enter a substantiation of abuse or neglect.

**Physical Neglect
(continued)**

- permitting the child to live under conditions, circumstances or associations injurious to his well-being including, but not limited to, the following:
 - substance use by caregiver, which adversely impacts the child physically
 - psychiatric problem of the caregiver which adversely impacts the child physically
 - exposure to family violence which adversely impacts the child physically
 - exposure to violent events, situations, or persons that would be reasonably judged to compromise a child's physical safety
 - non-accidental, negligent exposure to drug trafficking and/or individuals engaged in the active abuse of illegal substances
 - voluntarily and knowingly entrusting the care of a child to individuals who may be disqualified to provide safe care (e.g. persons who are subject to active protective or restraining orders; persons with past history of violent/drug/sex crimes);
 - non-accidental or negligent exposure to pornography or sexual acts
 - inability to consistently provide the minimum of child-caring tasks
 - inability to provide or maintain a safe living environment.
- action/inaction resulting in death
- abandonment
- action/inaction resulting in the child's failure to thrive
- transience
- inadequate supervision: creating or allowing a circumstance in which a child is alone for an excessive period of time given the child's age and cognitive abilities
- holding the child responsible for the care of siblings or others beyond the child's ability
- failure to provide reasonable and proper supervision of a child given the child's age and cognitive abilities.

Note:

- inadequate food, clothing, or shelter or transience: finding must be related to caregiver acts of omission or commission and not simply a function of poverty alone
- whether or not the adverse impact has to be demonstrated is a function of the child's age, cognitive abilities, verbal ability and developmental level
- the presence of legal or illegal substances in the bodily fluids of a
 - parent or legal guardian
 - pregnant person

shall not form the sole or primary basis for any action or proceeding by the Department. Any action or proceeding by the Department must be based on harm or risk of harm to a child and the parent or guardian's ability to provide appropriate care for the child.

SPECIALIZED CHILD WELFARE SUBJECT MATTER

Newborn and Infant

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Policy

Newborns and infants are solely reliant on their caregivers for safety, caretaking, supervision and protection. This vulnerability may increase their risk of being brought to the attention of the child welfare system for allegations of abuse and/or neglect.



The Department of Children and Families (DCF) shall assess the safety and risk of all newborns and infants who are involved with child welfare or who are the subject of an accepted Child Protective Service (CPS) report and apply a designation of high-risk to such child (not the case).

Infant/ Newborn Defined

An infant refers to a child from birth up to the age of one year.
A newborn refers to a child less than 30 days old.

Safe Havens Act

The Safe Havens Act for Newborns allows a parent or their agent to voluntarily surrender their newborn aged 30 days or younger at a hospital's Emergency Department without facing criminal prosecution. Once the newborn is surrendered, DCF shall assume responsibility for the newborn's care and control and shall establish plans for the child's safety and permanency.

Cross reference: DCF Policy, 21-12, Safe Havens for Newborns
<https://portal.ct.gov/-/media/dcf/policy/chapters/21-12.pdf>
Legal Reference: C.G.S. section 17a -57-60

High Risk Newborns



Indicators that a newborn may be at high risk due to factors affecting the newborn include, but are not limited to the following:

- a newborn with a life-threatening condition
- serious medical/health conditions requiring specialized care
- premature or low birth weight
- prenatal substance use exposure
- prolonged neonatal intensive care unit stay

STRUCTURED DECISION MAKING (SDM Careline Assessment)

Neglect

Physical neglect

- ☐ Neglectful act resulting in death
- ☐ Abandonment
- ☐ Action or inaction resulting in failure to thrive
- ☐ Child is denied proper physical care and attention (select all that apply)
 - ☐ Inadequate clothing or hygiene
 - ☐ Inadequate food/nutrition or malnutrition
 - ☐ Inadequate supervision
 - ☐ Inadequate shelter
- ☐ High-risk newborn
- ☐ Erratic, deviant, or impaired behavior by the caregiver with adverse impact on the child



Quick Glance Data from June 24, 2022 DCF FOI Response

- **91% of all CPS/ Careline Reports from Hospitals were accepted for Investigation in 2021**
- **Black and Hispanic women made up 53% of those investigated**

What is the process like for a Hospital employee who is reporting the mother/ parents of a newborn to DCF for likely investigation?



**CPS Background
Check**

CPS Background Check requests can be submitted in this site. You can submit Employment, Foster Care, and Adam Walsh checks.



**Mandated Reporter
Online Reporting
Portal**

Mandated Reporters can file Non-Emergent Online CPS Reports to DCF.



**CAPTA/CARA
Newborn Notification
Portal**

Birthing Hospital CAPTA Notifications and/or Newborn CPS Reports Portal.



Connecticut State

Department of Children and Families

Are there suspicions of abuse or neglect? *

☐ Yes ☐ No

Did the family present with a completed Family Care Plan?

☐ Yes, Reviewed by Reporter ☐ Yes, Developed

What information was provided to the mother/bi

- ☐ 12 Step Group
- ☐ Birth to Three
- ☐ Breastfeeding
- ☐ Childcare
- ☐ Co-parenting
- ☐ Depression during/after pregnancy
- ☐ Developmental Milestones
- ☐ Financial Assistance
- ☐ Food Insecurity
- ☐ Home Visiting
- ☐ Housing Assistance

- ☐ Immunizations
- ☐ Infant Car Seat Safety
- ☐ Medication for Opioid Use Disorder
- ☐ Medication Assisted Recovery
- ☐ Mental Health -Parent
- ☐ Mental Health-Early Childhood
- ☐ Naloxone Education
- ☐ Nutrition
- ☐ Oral Health Care
- ☐ Parenting Groups
- ☐ Prenatal Health Care

- ☐ Safe Sleep Plan
- ☐ Second Hand Smoke
- ☐ Secure Storage
- ☐ Secure Environment
- ☐ SNAP Benefits
- ☐ Substance Use Counseling
- ☐ Transportation
- ☐ WIC
- ☐ Other (specify)
- ☐ Not Applicable

Abused Child: Any child who has a non-accidental physical injury, or injuries which are at variance with the history given of such injuries, or is in a condition which is the result of maltreatment such as, but not limited to, malnutrition, sexual molestation, deprivation of necessities, emotional maltreatment or cruel punishment.

Neglected Child: Any child who has been abandoned or is being denied proper care and attention, physically, educationally, emotionally, or morally or is being permitted to live under conditions, circumstances or associations injurious to his or her well-being.



Connecticut State

Department of Children and Families

What prenatal care was provided during pregnancy? Were there any substance use concerns noted by the prenatal provider and if so, what and during what time of the pregnancy and what recommendations were provided? Were there any positive or negative toxicology provided? Please add the dates: *

Are there current or past mental health concerns that will impact the parents' ability to safeguard their child? Include any known diagnosis/medications and past, or current providers. * ⓘ

Does the father have any known diagnosis/medication? Include current, or past services, and provide name of past/current providers: *

Has the mother/birthing person, or the father demonstrated any behaviors, or made any comments that may indicate the need for a mental health assessment? *

STATE OF CONNECTICUT
DEPARTMENT OF CHILDREN AND FAMILIES
ADMINISTRATIVE HEARINGS UNIT
505 HUDSON STREET
HARTFORD, CT 06106

FINAL DECISION
SUBSTANTIATION HEARING

HEARING DATE: September 6, 2011

RE: Renee D., LINK #184150

HEARING OFFICER: Attorney Charlotte Shea

PARTIES: Renee D., Appellant
Joan O'Rourke, Investigator

REPRESENTATIVES: Attorney Ira Mayo, for the Appellant
Attorney Dale King, for the Department

DECISION DATE: November 3, 2011

I. Introduction

A substantiation hearing was held in the Torrington Area Office of the Department of Children and Families on September 6, 2011 at the request of the Appellant. At issue in the hearing was the Department's decision to uphold the substantiation of the Appellant as a perpetrator of physical neglect from a 2011 investigation. The Department did not find that the Appellant poses a risk to the health, safety or well-being of children. The Appellant was not placed on the Department's confidential Central Registry and it was not an issue at the hearing. **Held:** The substantiation of physical neglect is reversed.

II. Exhibits

1. Notification of Internal Review Results, dated April 20, 2011.
2. Request for Administrative Hearing, dated May 6, 2011.
3. Notice of Substantiation Hearing, dated May 25, 2011.
4. Motion for Continuance, dated June 14, 2011.
5. Notice of Rescheduled Substantiation Hearing, dated July 7, 2011.
6. Motion for Continuance, dated July 18, 2011.
7. Notice of Rescheduled Substantiation Hearing, dated July 26, 2011.
8. Investigation Protocol, commencement date January 24, 2011.
9. Letter from Dr. Kavle, dated May 11, 2011.

III. Findings of Fact

1. Denver D., d.o.b. 01/2011, is the son of the Appellant.
2. During the Appellant's pregnancy with Denver she used vicodin that had been prescribed by her dentist for treatment of jaw pain.
3. The Appellant's obstetrician was aware of her use of the vicodin and did not advise the Appellant not to use the medication during the pregnancy. The Appellant was told the medication would not harm the fetus, but she should use as little as possible.
4. Following his birth, Denver was kept at the hospital for seven days to monitor for signs of withdrawal symptoms secondary to the Appellant's use of the vicodin. Denver exhibited no signs of withdrawal and during that time the Appellant provided excellent care for the child.

IV. Applicable Law/Regulation/Policy

Substantiation and Central Registry Hearings conducted by the Department of Children and Families are held in accordance with state statutes (Conn. Gen. Stat. §§17a-101k, 46b-120 and 53a-18), state regulations (Regulations of Connecticut State Agencies §17a-101k-(1-16)), and Department Policy (22-12-1 through 22-12-8, 34-2-7 and 34-2-8). Copies of the relevant sections of these documents are available upon request through the Administrative Hearings Unit or may be accessed through the Department's website: www.ct.gov/DCF

V. Rationale

Physical Neglect Substantiation

The Department substantiated physical neglect on the basis that the Appellant demonstrated a serious disregard for her infant's physical well being by taking vicodin during her pregnancy. The Department has not demonstrated by a fair preponderance of the evidence that the Appellant physically neglected Denver.

In order to support a substantiation of physical neglect the Department must demonstrate: (1) the Appellant is a person responsible for the child's health, welfare, or care; or is a person given access to the child by a person responsible, or is a person entrusted with the care of the child; (2) the Appellant failed to provide and maintain adequate food, clothing, supervision, and/or safety for the child; and (3) the failure resulted in an adverse physical impact on the child unless the act was a single incident that demonstrated a serious disregard for the child's welfare. DCF Policy 34-2-7

The Appellant is Denver's mother; therefore, she meets the definition of a person responsible for the child's health, welfare or care and is subject to the Department's jurisdiction.

The Department has not demonstrated by a fair preponderance of evidence that the Appellant demonstrated a serious disregard for Denver's physical well being. The Appellant had been prescribed vicodin for three years prior to becoming pregnant with Denver. She was prescribed the medication to treat a chronic medical condition that left her in constant pain and the medication was necessary to enable her to eat. Immediately upon learning that she was pregnant, the Appellant informed her obstetrician that she was taking vicodin on a daily basis. The Appellant's physician instructed her to keep taking the medication but to try and take as little as possible. The Appellant followed her physician's advice and continued to take her prescribed

medication. Denver was monitored in the hospital after birth to ensure that he suffered no side effects of the medication and he was discharged to the Appellant's care with no signs of withdrawal or any adverse physical impact. The Appellant clearly followed the directives of her treating medical professionals in her use of the prescription medication during her pregnancy. It can not be found that she demonstrated a serious disregard for her child's physical well being.

The Department has not demonstrated by a fair preponderance of the evidence the elements of physical neglect. The substantiation is reversed.


Charlotte Shea, MSSW, JD
Adjudicator

How might a law that ensures prenatal records remain confidential help shape our culture re: cultural norms for pregnant women?

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- **91% of all CPS/ Careline Reports from Hospitals were accepted for Investigation in 2021**
 - **Black and Hispanic women made up 53% of those investigated**

HB 6186: An Act Concerning Medical Records Pertaining to Prenatal Care and Mandated Reports

- **Consistent with State law regarding mandated reporting requirements on abuse and neglect**
- **Does Not conflict with CAPTA obligations**
- **Does Not conflict with protections on good faith mandated reporting**
- **Provides much needed legal clarity to mandated reporters**