



State Statutes Series 2004

Parental Drug Use as Child Abuse

Infants Exposed to Maternal Drug Use

There is increasing awareness that abuse of drugs or alcohol by parents and other caretakers can have a negative impact on the health, safety, and well-being of children. Approximately¹ 31 States currently have laws in place within their child protection statutes that address the issue of substance abuse by parents. Two main areas of concern are (1) the harm caused to fetuses by substance abuse by pregnant women and (2) the harm caused to children of any age by substance abuse by others or other illegal drug activity in the home.

The Child Abuse Prevention and Treatment Act (CAPTA)² requires States to have policies and procedures to address the needs of infants born and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure. Several States currently address this requirement in their statutes. Approximately 12 States³ have specific reporting procedures for infants who show evidence at birth of having been exposed to drugs, alcohol, or other controlled substances, while 12 States⁴ and the District of Columbia include this type of exposure in their definitions of child abuse or neglect.

Children Exposed to Illegal Drug Activity

There is increasing concern about the negative impact on children when parents or other members of the household abuse alcohol or drugs or engage in other illegal drug-related activity, such as the manufacture of methamphetamines in home-based laboratories. Many States have responded to the problem of substance abuse by parents by expanding the civil definition of child abuse or neglect so that children living in dangerous home environments can be protected. Specific circumstances that are considered child abuse or neglect include:

- Manufacture of a controlled substance in the presence of child or on the premises occupied by a child⁵
- Allowing a child to be present where the chemicals or equipment for the manufacture of controlled substances are used or stored⁶

¹ The word *approximately* is used to stress the fact that the States frequently amend their laws, so this information is current only through June 2004.

² 42 U.S.C. 5101 *et seq.*, as amended by the Keeping Children and Families Safe Act of 2003 (P.L. 108-36).

³ Arizona, California, Illinois, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Oklahoma, and Utah.

⁴ Florida, Illinois, Indiana, Iowa, Massachusetts, Minnesota, North Dakota, South Carolina, South Dakota, Texas, Virginia, and Wisconsin.

⁵ Colorado, Indiana, Iowa, Montana, South Dakota, Tennessee, and Virginia.

⁶ Arizona and New Mexico.



- Selling, distributing, or giving drugs or alcohol to a child⁷
- Use of a controlled substance by a caregiver that impairs the caregiver's ability to adequately care for the child⁸
- Exposure of the child to drug paraphernalia,⁹ the criminal sale or distribution of drugs,¹⁰ or drug-related activity¹¹

A few other States address the issue of exposing children to illegal drug activity in their criminal statutes. For example, in Georgia, Idaho, and Ohio, the manufacture or possession of methamphetamine in the presence of a child is a felony. Washington State provides for enhanced penalties for any conviction for the manufacture of methamphetamine when a child was present on the premises where the crime occurred. In Wyoming, selling or giving an illegal drug to a child by any person is a felony.

This publication is a product of the State Statutes Series prepared by the National Clearinghouse on Child Abuse and Neglect Information. Publications with Full-Text Excerpts of State Laws contain excerpts of text with citations from specific sections of each State's code that focus on a single issue. While every attempt has been made to be complete, additional information on these topics may be in other sections of a State's code as well as in agency regulations, case law, and informal practices and procedures.

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⁷ Florida, Hawaii, Illinois, Minnesota, and Texas.

⁸ Kentucky, New York, Rhode Island, and Texas.

⁹ North Dakota.

¹⁰ Montana and Virginia.

¹¹ District of Columbia.