HOUSE DOCKET, NO. 3132 FILED ON: 1/20/2023

HOUSE . . . . . No. 166

The Commonwealth of Massachusetts

PRESENTED BY:

Carole A. Fiola

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to substance exposed newborns.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Carole A. Fiola	*6th Bristol*	*1/20/2023*
Paul A. Schmid III	*8th Bristol*	*2/1/2023*
Vanna Howard	*17th Middlesex*	*2/1/2023*
Alan Silvia	*7th Bristol*	*2/2/2023*
Mathew J. Muratore	*1st Plymouth*	*2/7/2023*
Tricia Farley-Bouvier	*2nd Berkshire*	*2/14/2023*
Priscila S. Sousa	*6th Middlesex*	*2/15/2023*
Lindsay N. Sabadosa	*1st Hampshire*	*6/20/2023*

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HOUSE . . . . . No. 166

By Representative Fiola of Fall River, a petition (accompanied by bill, House, No. 166) of Carole A. Fiola and others relative to substance exposed newborns. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act relative to substance exposed newborns.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 51A of chapter 119 of the general laws is hereby amended in subsection (a) in the first paragraph by striking out the words:-

(iii) physical dependence upon an addictive drug at birth,

SECTION 2. Said section 51A is hereby further amended by inserting after subsection (a) the following new subsection:-

(a ½) An indication of prenatal parental substance use at the time of the delivery of an infant does not, in of itself, meet the requirements of subsection (a). However, a mandatory reporter shall file a written report following in the following circumstances:

(i) there is an indication of prenatal substance use by the birthing parent; and

(ii) the mandated reporter has reasonable cause to believe that the parent(s) will continue to use substances in such a manner that would render them unable to fulfill the basic needs of the

infant upon discharge from the hospital, or if other factors are present that indicate current and substantial risk of harm to a child's health or welfare.

SECTION 3. Chapter 111 of the general laws is hereby amended by inserting in Section 1 the following:

"Plan of Safe Care", a family care plan designed to ensure the safety and well-being of an infant with prenatal substance exposure following his or her release from the care of a healthcare provider by addressing the health and substance use treatment needs of the infant and affected family or caregiver.

SECTION 4: Chapter 111 of the general laws is hereby amended by inserting after section 51K the following section:-

Section 51L. (a) The Department of Public Health in consultation with the Department of Children and Families shall promulgate regulations and corresponding guidance for all healthcare providers who care for perinatal patients and/or newborns detailing the roles and responsibilities of staff related to the requirement that healthcare providers must:

(1) Screen, conduct a brief intervention, and provide referrals to treatment services in order to identify and respond to prenatal substance use;

(2) Notify the Department of Public Health of all births of infants who were prenatally exposed to substances pursuant to the requirements of the federal Child Abuse Prevention and Treatment Act.

(3) Prior to postnatal discharge, determine whether to file a report of suspected child abuse or neglect as required by section 51A of chapter 119 and identify if a plan of safe care, as defined in section 1 of chapter 111, has been developed;

(4) Assess family needs, develop a plan of safe care if indicated, and refer families to appropriate services, as directed by the Department of Public Health and pursuant to the federal Child Abuse Prevention and Treatment Act.

(b) The Department of Public Health shall develop a plan to receive notifications of substance exposed births, as defined in regulation under subsection (a) of this section, directly from healthcare providers and shall collect data for reporting in a manner that is in compliance with the federal Child Abuse Prevention and Treatment Act .

(c) The Department of Public Health shall establish a program to ensure perinatal individuals, families, and providers have access to services designed to support the development and implementation of an effective plan of safe care, including services addressing the health and substance use disorder treatment needs of the infants and affected family or caregivers, as required by the federal Child Abuse Prevention and Treatment Act. Said program shall include a central system perinatal individuals, families and providers can contact to receive information and referrals, as well as a system of community-based services to meet the behavioral health, parenting, and child development needs of families affected by substance use and substance use disorders, subject to appropriation.

(d) The Department of Children and Families shall provide, and the Department of Public Health shall receive, submissions of data from the Department of Children and Families to the

Public Health Data Warehouse in order to facilitate ongoing quality assurance and evaluation projects related to this statute and other family-service initiatives.

(e) The Department of Public Health shall provide data to the Department of Children and Families on all births of infants who were prenatally exposed to substances in a form and manner that is compliant with the requirements of the federal Child Abuse Prevention and Treatment Act, provided that said data shall not include personally identifiable information.

SECTION 5. (a) The department of the children and families, department of public health and the office of the child advocate shall develop a report to study of the impact of this legislation on child abuse and neglect reports made under Section 51A of chapter 119 and compliance with the federal Child Abuse Prevention and Treatment Act. The departments shall consider

(1) Any disparate impact, including disparate racial impact, of these changes in statute;

(2) Any impact the statutory changes may have had on child safety;

(3) Gaps in services; and

(4) Any additional statutory or regulatory changes that may be needed.

(b) The report shall include

(1) An examination of child abuse and neglect reports related to an infant's exposure at birth to substances that were ultimately screened out by the department of children and families;

(2) An examination of reports of infants who were exposed to substances; at birth that did not result in a child abuse and neglect report, and whether there was a subsequent report of abuse or neglect of the same child within one year of birth;

(3) The demographics, including race and ethnicity, of both the child and the parents that are the subject of reports described in subsection (1) and (2).

(c) If feasible, said report shall include relevant aggregate quantitative data on all cases that meet the criteria specified in subsection (b)(1) and (b)(2) above, as well as a qualitative analysis that includes a review of case notes in the database maintained by the department of children and families for a sample of cases.

(d) No later than 18 months after the effective date of this legislation the department of children and families, the department of public health and the office of the child advocate shall file an interim report of their findings with the clerks of the senate and house of representatives, the senate committee on ways and means, the house committee on ways and means, the joint committee on children, families, and person with disabilities, and the joint committee on mental health, substance use and recovery.

(e) No later than three years after the effective date of this legislation, the department of children and families, the department of public health, and the office of the child advocate shall file a final report of their findings with the clerks of the senate and house of representatives, the senate committee on ways and means, the house committee on ways and means, the joint committee on children, families, and person with disabilities, and the joint committee on mental health, substance use and recovery.

SECTION 6. Sections 1 and 2 shall be effective eighteen months after the passage of this legislation.

SECTION 7. Sections 3 and 4 shall be implemented and effective twelve months after the passage of this legislation.