

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:
<i>Carole A. Fiola</i>	<i>6th Bristol</i>	<i>1/19/2023</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>	<i>2/1/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/1/2023</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>	<i>2/2/2023</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>2/7/2023</i>
<i>Tricia Farley-Bouvier</i>	<i>2nd Berkshire</i>	<i>2/14/2023</i>
<i>Priscila S. Sousa</i>	<i>6th Middlesex</i>	<i>2/15/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>6/20/2023</i>

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

65 (3) Gaps in services; and

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

67 (b) The report shall include

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

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

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

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

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

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

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

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