



126th MAINE LEGISLATURE

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Legislative Document

No. 257

H.P. 194

House of Representatives, February 5, 2013

An Act To Protect Newborns Exposed to Drugs or Alcohol

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.
Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MALABY of Hancock.
Cosponsored by Senator CRAVEN of Androscoggin and
Representatives: FARNSWORTH of Portland, SANDERSON of Chelsea, SIROCKI of
Scarborough.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §4004-B**, as enacted by PL 2003, c. 673, Pt. Z, §1, is repealed.

3 **Sec. 2. 22 MRSA §4004-C** is enacted to read:

4 **§4004-C. Response to notification of prenatal exposure to drugs or alcohol**

5 **1. Receipt of notification.** The department shall receive notifications of infants
6 identified in reports submitted to the department under section 4011-C, subsection 1 as
7 potentially exposed to drugs or alcohol.

8 **2. Plan for safe care.** For each infant for whom the department receives notification
9 under section 4011-C, the department shall, with the assistance of a health care provider
10 involved in the medical or mental health care of the mother or the infant, establish a plan
11 for the safe care of the infant. A plan for the safe care of the infant may include referral
12 of the infant and mother to a social service agency or a voluntary substance abuse
13 treatment and prevention service.

14 **3. Cases of suspected abuse or neglect.** If the department determines that an infant
15 for whom a notification is received under this section has been abused or neglected, the
16 department shall comply with section 4004, subsection 2, paragraphs E and F.

17 **Sec. 3. 22 MRSA §4011-B**, as enacted by PL 2003, c. 673, Pt. Z, §5, is repealed.

18 **Sec. 4. 22 MRSA §4011-C** is enacted to read:

19 **§4011-C. Notification of infants with prenatal exposure to drugs or alcohol**

20 In order to assist the department in the development of a plan for the safe care of an
21 infant prenatally exposed to drugs or alcohol under section 4004-C, notification by health
22 care providers is required as described in this section.

23 **1. Notification required.** A health care provider involved in the delivery or care of
24 an infant from birth to 12 months of age shall notify the department of the condition of
25 the infant if the provider knows or has reasonable cause to suspect the infant was born:

26 A. Having been exposed to an illegal substance;

27 B. Requiring medical monitoring resulting from prenatal drug or alcohol exposure
28 without regard to whether the substance was legal or illegal; or

29 C. With facial characteristics, growth restriction, central nervous system
30 abnormalities or other characteristics consistent with prenatal alcohol exposure.

31 Notification under this section does not establish abuse or neglect under this chapter nor
32 may notification be construed to require prosecution for any illegal action, including, but
33 not limited to, the act of exposing a fetus to drugs, alcohol or other substances.

34 **2. Notification procedures.** Notification under this section must be made as
35 follows.

1 A. Notification must be made to the agency of the department with responsibility for
2 central intake for child protective services reports by telephone, fax or secure e-mail.

3 B. Notification must be made after the birth of the infant as soon as a condition
4 under subsection 1 is identified and if possible prior to discharge of the infant from a
5 health care facility.

6 C. The notification must contain the following information to the extent that the
7 person making the notification has knowledge of the information:

8 (1) The name and address of the infant and the persons responsible for the
9 infant's care or custody;

10 (2) The infant's birth date and sex;

11 (3) The type of substance to which the infant was exposed and the nature and
12 extent of exposure to that substance, including any pharmacological or
13 nonpharmacological treatment required;

14 (4) A description of conditions that cause consideration of a fetal alcohol
15 spectrum disorder;

16 (5) The degree of specialized care the infant is likely to require upon discharge;

17 (6) The anticipated discharge date;

18 (7) Any information that pertains to behaviors demonstrated by the parents or
19 custodians that are relevant to their ability to meet the infant's medical and
20 nonmedical needs;

21 (8) The names of any service providers that are currently involved with the
22 family or to which the family has been referred; and

23 (9) Any other information considered relevant to the development of a plan for
24 the safe care of an infant under section 4004-C, subsection 2.

25 **3. Definition.** For the purposes of this section, "health care provider" means a
26 person described in section 4011-A, subsection 1, paragraph A, subparagraphs (1) to (10),
27 (15), (17) to (20) or (22) or a person who assists in the delivery or birth of a child for
28 compensation, including, but not limited to, a midwife.

29 SUMMARY

30 This bill provides greater detail regarding the timing and process under which
31 notifications must be made to the Department of Health and Human Services by health
32 care providers regarding infants from birth to 12 months of age who exhibit signs of fetal
33 exposure to drugs or alcohol. Following receipt of such a notification, the department is
34 required to prepare a plan for the safe care of the infant. The bill repeals requirements
35 that the department investigate every notification to determine abuse or neglect.