

H.173, S.64 - An Act to Support Families

Rep. Garballey, Sen. Comerford

MA LAW HARMS NEW PARENTS AND FAMILIES

Currently, the birth of a substance-exposed newborn triggers an automatic obligation on healthcare providers to report the birthing parent to the Department of Children and Families (DCF) for suspected abuse or neglect. Massachusetts is the only state in New England where a report of child abuse/neglect is mandated regardless of whether the substance was prescribed to the pregnant individual for addiction treatment or whether the healthcare provider believes an infant is at risk for abuse or neglect. This 51A report initiates an invasive screening process into the birthing parent's life.

The current Massachusetts 51A reporting requirements:

- **Stigmatize people receiving recommended medical treatment**

Leading medical organizations agree that medication treatment during pregnancy reduces relapse, improves adherence to prenatal care and addiction treatment programs, and reduces the risk of obstetric complications. Yet fear of a 51A report discourages pregnant individuals from initiating or continuing medication treatment for substance use disorder (SUD).

- **Harm the health of pregnant people and infants**

Even when a 51A report does not result in a DCF case opening, it still harms the mother and the child. The threat of a filing at birth causes stress and anxiety and often results in lasting trauma for families. It creates barriers to accessing essential services such as prenatal care and addiction treatment during pregnancy and can lead to distrust of the medical system and DCF.

- **Falsely conflate prenatal substance exposure with child abuse**

Current language in the 51A law describes prenatal substance exposure as "physical injury". Neonatal opioid withdrawal symptoms are transient and treatable and can present similarly to withdrawals from other medications like SSRIs or benzodiazepines, neither of which trigger a 51A response.

- **Discriminate against women, and especially women of color**

This policy disproportionately targets women. 51A reports are not mandated for a non-birthing parent using substances or taking prescribed opioid medication at time of delivery. Further, women of color are more likely to experience toxicology testing, 51A filings, case openings, and child removal.

THE SOLUTION

H.173, S.64 would update the law to center the best interests of the child and bring Massachusetts policy in line with the rest of New England while still meeting federal reporting requirements. Providers would no longer be required to file a 51A report by the singular fact of prenatal substance exposure, reducing unnecessary reports to DCF and costs to the state. Instead, an anonymous notification of a substance-exposed newborn separate from the 51A filing system would be made. Without the threat of a mandatory report of abuse for taking medically indicated medication, more pregnant people with SUD will be comfortable seeking necessary prenatal care and maintaining their evidence-based treatment, leading to overall improvements in maternal and infant health outcomes.

For more information or to get involved in advocacy, please contact andrea.pessolano@bmc.org