



*The Commonwealth of Massachusetts  
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Department of Children and Families  
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**TO:** Mandated Reporters, Community Partners and Other Stakeholders  
**RE:** 51A Reports regarding Substance Exposed Newborns (SENs)  
**DATE:** November 1, 2016  
**Revised:** December, 2017

The Massachusetts Department of Children and Families (DCF) has received a number of questions regarding when to file a 51A report in circumstances involving Substance Exposed Newborns (SENs). In response, DCF is offering this guidance to hospitals and medical professionals as they update policies and practices to respond to SENs cases.

Mandated reporters should continue to report SENs as defined by both federal and state laws.<sup>i</sup> In Massachusetts, a 51A Report must be filed when a newborn is born physically dependent upon an addictive drug at birth and/or if there is reasonable cause to believe that a child is suffering abuse/neglect. Federal law also requires that health care providers notify DCF when a newborn is identified as being affected by substance abuse, experiencing withdrawal symptoms or have Fetal Alcohol Spectrum Disorder.

Clinical considerations include:

- a diagnosis of withdrawal from a substance (Neonatal Abstinence Syndrome), including infants who experience NAS due to Medication Assisted Treatment or other prescribed medications;
- a diagnosis of fetal alcohol effects or fetal alcohol syndrome; and/or
- newborns who were exposed to substances in utero and there is reasonable cause to believe that the child is suffering from abuse/neglect.

A newborn with a positive toxicology screen should prompt additional conversation and/or further information gathering to understand better if hospital or medical personnel believe there is reasonable cause to believe that the child is suffering from abuse/neglect.

If there are further questions regarding when to file a 51A, please contact your risk management office or legal department.

Newborns who are substance exposed are a highly vulnerable population that is at increased risk of abuse and/or neglect. DCF's role is to understand parental capacity and address related issues of risk, safety, health and well-being.

When a 51A Report is filed related to substances, DCF will ask the mandated reporter:

- the substance(s) affecting the newborn, if known;
- if the newborn had a positive toxicology screen at birth;
- if the newborn is experiencing Neonatal Abstinence Syndrome;
- if the newborn is diagnosed with Fetal Alcohol Syndrome;
- if the substance affecting the newborn was prescribed and taken as directed by a medical professional; and
- if there are any concerns about the impact of the substance(s) use/misuse on the mother's capacity to safely care for her infant.

Upon receipt of the 51A report, DCF reviews all details of the report, including the allegations, the ages of the children in the family, family constellation, any information regarding the family's DCF's history, and current services to the family. Additionally, during the screening process DCF conducts a Criminal Offender and Sex Offender registry information check and may contact other collaterals. This information is then reviewed to determine whether or not the report will be screened in for an investigation and if DCF needs to respond on an emergency basis to ensure the safety of the newborn.

DCF looks forward to continuing our partnership with mandated reporters and community stakeholders to best understand risk/safety concerns for all children. If you have further questions regarding filing a 51A report, please contact your local DCF Area Office.

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***Massachusetts General Laws Ch. 119, sec. 51 A Mandated Reporter Law:***

Legislates (a) A mandated reporter who, in his professional capacity, has reasonable cause to believe that a child is suffering physical or emotional injury resulting from: (i) abuse inflicted upon him which causes harm or substantial risk of harm to the child's health or welfare, including sexual abuse; (ii) neglect, including malnutrition; (iii) physical dependence upon an addictive drug at birth, shall immediately communicate with the department orally and, within 48 hours, shall file a written report with the department detailing the suspected abuse or neglect; or (iv) being a sexually exploited child; or (v) being a human trafficking victim as defined by section 20M of chapter 233.

***Federal Child Abuse Prevention and Treatment Act (CAPTA):***

Legislates that "(ii) policies and procedures (including appropriate referrals to child protection service systems and for other appropriate services) to address the needs of infants born with and identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder, including a requirement that health care providers involved in the delivery or care of such infants notify the child protective services system of the occurrence of such condition in such infants."

