

**STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES**

PUBLIC NOTICE OF PROPOSED RULE-MAKING

In accordance with Rhode Island General Law (RIGL) 42-35 and 42-72-5, notice is hereby given that the Department of Children, Youth and Families proposes to amend the following DCYF rule:

Drug Usage During Pregnancy

This amended rule updates processes for utilizing Straight and ExParte Petitions in accordance with changes made in the RI State Budget. In the amendment of this rule, consideration was given to the following: (1) alternative approaches and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This amended rule is accessible on the DCYF website (<http://www.dcyf.ri.gov>) or the R.I. Secretary of State's website (<http://www.sec.state.ri.us/ProposedRules/>). Interested persons may submit written comments by November 7, 2011 to Susan Bowler, Department of Children, Youth and Families, 101 Friendship Street, Providence, RI 02903 (Susan.Bowler@dcyf.ri.gov).

In accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

Drug Usage During Pregnancy

Rhode Island Department of Children, Youth and Families

Policy: 500.0125

Effective Date: January 22, 1990 Revised:

Version: 21

~~Substance abuse is a major problem in the United States. Assisting the children of substance abusing families has become a major aspect of the Department's role in the community. About 11 percent of the children born in the United States have had some exposure to licit and/or illicit drugs. The number of pregnant women using illegal drugs and/or excessive amounts of alcohol continues to grow despite warnings about effects on the fetus and possible long term problems for the child after birth. As examples, the use of cocaine during pregnancy may cause long term problems including malformed genital and urinary organs, a tendency to stop breathing, a higher risk of crib death, retarded growth, stiff limbs, irritability, a missing small intestine and strokes and seizures. Babies born to women who abuse alcohol may have fetal alcohol syndrome, a complex of birth defects including retarded growth and cardiac abnormalities. Other drugs may also cause birth defects when used by pregnant women. For purposes of this policy, the term drugs means a controlled or illegal substance and/or chemical (including, but not limited to, PCP, heroin, cocaine and methamphetamines.)~~

~~The Department carefully considers all calls to the Child Abuse Hotline made by prenatal clinic workers, professionals, or other concerned individuals alleging drug and/or alcohol use by that a pregnant woman is using drugs and/or alcohol. If there are specific allegations of abuse and/or neglect of children in the home, an investigation is conducted. If there are no specific allegations and/or no children in the home, the information alleging drug and/or alcohol abuse is put into RICHIST as an Early Warning. A call alleging drug and/or alcohol abuse may be received during the pregnancy, after delivery while the newborn is at the hospital or after a newborn is already home. An investigation is conducted if there is a specific allegation of abuse and/or neglect of the newborn and/or other children in the home. If, during the course of the investigation, the preponderance of evidence uncovered indicates that mother used drugs and/or alcohol during pregnancy, an allegation of drug/alcohol abuse is added to the investigation. Such evidence may include positive prenatal drug screen(s), positive toxicology screen on mother or newborn while in the hospital or admission by mother that she used drugs during pregnancy.~~

~~When a woman has tested positive for drugs and/or alcohol during prenatal treatment, there is good cause to test both her and her baby for the presence of drugs immediately after the birth.~~

~~Babies born with drugs in their systems, as evidenced by a positive toxicology screen at birth or observable withdrawal symptoms, babies born to mothers who admit using drugs during pregnancy or who have been observed ingesting drugs,drugs and babies born with fetal alcohol syndrome must be reported to the Child Abuse Hotline. A Report of Examination is should be completed by the attending physician/nurse practitioner. It is important that, if the method of use is known, such information is be given reported to the Department DCYF as there is a greater risk of HIV infection for both mother and child when drugs are used intravenously. All such reports are investigated by the Department DCYF.~~

~~If an investigation is founded and When a call alleging drug/alcohol abuse by mother is received on the Child Abuse Hotline after a newborn is already home, an investigation will be conducted if there is a specific allegation of abuse and/or neglect of the newborn and/or other children in the home. If during the course of the investigation, credible evidence is uncovered which proves that mother used drugs and/or alcohol during pregnancy (i.e. positive prenatal drug screen(s), positive toxicology screen on mother or newborn while in the hospital or admission by mother that she used drugs during pregnancy), an allegation of drug/alcohol abuse will be added to the investigation. An indicated allegation of drug/alcohol abuse usually warrants legal action whether~~

~~the facts are substantiated prior to the newborn leaving the hospital, or after the newborn is at home.~~

~~To ensure that these babies and their families are provided with necessary intervention, drug/alcohol treatment and social services, the assigned Child Protective Investigator (CPI) consults with his/her supervisor and DCYF Legal Counsel as to the advisability of requesting an Order of Detention, Ex Parte, or, If an Order of Detention is not requested, the CPI will file a Straight Petition. Whether or not a Straight Petition is filed, the assigned Child Protective Investigator (CPI) refers the family to community services as appropriate. When the matter comes before the court, DCYF will recommend that mother (and father, if appropriate) receive drug treatment.~~

~~Legal and investigative/casework staff will, however, be allowed some discretion in determining whether or not the Department should pursue legal action and may decide not to initiate legal action if an indicated allegation of drug/alcohol abuse is based on a situation containing both of the following factors. First, the mother admits to using drugs/alcohol only during the first trimester of her pregnancy and second, there is no evidence (i.e. positive prenatal drug screen(s) during the second or third trimester, positive toxicology screen on mother or newborn, baby displaying withdrawal symptoms, or admission of drug use during second or third trimester) that mother used drugs and/or alcohol after the first trimester of pregnancy. During this Legal Consult, staff review all the facts of the case, including the type and frequency of drug usage.~~

Related Procedures

[Reports that a Pregnant Woman is Using Drugs](#)

[Allegation that a Newborn's Mother Used Drugs During Pregnancy](#)

[Alleging that the Mother of a Newborn who is Already Home from the Hospital is Using Drugs](#)

Drug Usage During Pregnancy~~Reports that a Pregnant Woman is Using Drugs~~

Procedure from Policy 500.0125: Drug Usage During Pregnancy

~~A.~~ A. A CPS report is completed by the Call Floor worker for all reports that a pregnant woman is using drugs:

1. An investigation ~~is~~will be initiated if there are specific allegations of abuse and/or neglect of child(ren) in the home.

~~Information-Referral~~Early Warning ~~is~~will be entered into RICHIST if there are no specific allegations of abuse and/or neglect and/or there are no child(ren) in the home.

2.

Allegation that a Newborn's Mother Used Drugs During Pregnancy

Procedure from Policy 500.0125: Drug Usage During Pregnancy

- A. — A CPS report is completed by the Call Floor worker for all reports alleging that a newborn's mother used drugs during pregnancy. This procedure applies whether the report is received before or after the newborn's mother leaves the hospital. —The allegation is drug/alcohol abuse:
- B.
1. The CPS report is forwarded through the Call Floor Supervisor to the Investigative Unit for assignment.
 2. An investigation of the report is initiated by a Child Protective Investigator (CPI).
 3. The CPI gathers all information pertinent to the case and completes the investigation:
 - a. If the investigation is indicated ~~(i.e. positive prenatal drug screen(s), positive toxicology screen on mother or newborn while in the hospital, baby having withdrawal symptoms or admission by mother that she used drugs during pregnancy)~~, the CPI confers with his/her supervisor and Department Legal staff as to the advisability of requesting an Order of Detention, Ex Parte. ~~The CPI consults with DCYF Legal staff.~~
 - b. — If it is determined that an Order of Detention, Ex Parte is not warranted, the ~~Child Protective~~ CPI files confers with his/her supervisor and Department Legal staff as to the advisability of requesting a Straight Petition. Appropriate referrals for services are made whether or not legal status is sought.
 - b. ~~If the mother admits to using drugs/alcohol only during the first trimester of her pregnancy and there is no evidence (i.e. positive prenatal drug screen(s) during the second or third trimester, positive toxicology screen on mother or newborn, baby displaying withdrawal symptoms, or admission of drug use during second or third trimester) that mother used drugs and/or alcohol after the first trimester of pregnancy, legal and investigative/casework staff will be allowed some discretion in determining if the Department should pursue legal action:~~
 - i. — Staff review all the facts of the case.
 - ii. — The type and frequency of the drug/alcohol usage is discussed in detail.
 - iii. — A decision may be made not to pursue legal action.
 - e. The case is transferred to the Intake Unit.

~~Alleging that the Mother of a Newborn Who is Already Home from the Hospital is Using Drugs~~
~~Procedure from Policy 500.0125: Drug Usage During Pregnancy~~

~~D. A. A CPS report is completed by the Call Floor worker for all reports alleging that the mother of a newborn who is already home from the hospital is using drugs:~~

~~1. The allegation to be used is determined by the Call Floor worker depending on the information given by the caller. If, during the course of the investigation, substantive information is learned which indicates that the mother used drugs and/or alcohol during pregnancy (i.e. positive prenatal drug screen(s), positive toxicology screen on mother or newborn while in the hospital or admission by the mother that she used drugs and/or alcohol during pregnancy), an allegation of drug/alcohol abuse is added by the CPI.~~

~~2. The CPI gathers all information pertinent to the case and completes the investigation:~~

~~a. a. If the investigation is indicated, the CPI confers with his/her supervisor as to the advisability of requesting an Order of Detention, ex parte.~~

~~b. The CPI consults with DCYF Legal staff. If it is determined that an Order of Detention is not warranted, the CPI files a straight petition.~~

~~c. If the mother admits to using drugs/alcohol only during the first trimester of her pregnancy and there is no evidence (i.e. positive prenatal drug screen(s) during the second or third trimester, positive toxicology screen on mother or newborn, baby displaying withdrawal symptoms, or admission of drug use during second or third trimester) that mother used drugs and/or alcohol after the first trimester of pregnancy, legal and investigative/casework staff will be allowed some discretion in determining if the Department should pursue legal action:~~

~~i. Staff review all the facts of the case.~~

~~ii. The type and frequency of the drug/alcohol usage is discussed in detail.~~

~~iii. A decision may be made not to pursue legal action.~~

~~d. The case is transferred to the Intake Unit.~~

~~3.c. If there is no specific allegation of abuse and/or neglect, the information is put into RICHIST as an Early Warning.~~