

# WY State Plan of Safe Care Guidance: Workgroup Final Document



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Changes to the federal CAPTA law mandate that healthcare providers involved in the delivery or care of infants born and identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure or a Fetal Alcohol Spectrum Disorder notify the child protective services system. **The notification is not a report of child abuse or neglect.** The CAPTA law further states that these identified infants receive a plan of safe care.

Pursuant to W.S. 35-2-1401, Infants Prenatally Substance Exposed (IPSE) require a plan of safe care that addresses the needs of the infant and family. Further that a de-identified notification to the Department of Family Services (DFS) be made for all IPSE. If the prenatal exposure is accompanied by child abuse or neglect concerns or there is imminent risk of serious harm to the child due to the parent's substance use or other risk factors, a report to DFS should be made in addition to the plan of safe care.

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### *What is the difference between a report and a notification in Wyoming?*

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**A report** to the local DFS office occurs when there are concerns of child abuse and neglect

\*An initial positive toxicology of the infant, at the birth event is not indicative of abuse or neglect by itself; immediate safety concern(s) must accompany the positive toxicology.

**A notification** to DFS occurs when there is identification (prenatally or postnatally) of IPSE or a Plan of Safe Care is developed. A notification does not contain identifying information and is completed through the online google form that can be found at:

<https://forms.gle/2zKBukP2yn99jJbd6>

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### *What happens after a report or notification is made?*

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**When DFS receives a report,** they can gather information and use the intake screening policies to determine whether there is imminent risk of serious harm to the infant or child abuse and neglect that requires a Child Protective Services (CPS) assistance. If there are no concerns of abuse or neglect, no imminent danger, or the existence of risk factors, the report may be screened out. If there is concern of imminent risk of harm or maltreatment, DFS may screen in the report for services.

**When DFS receives a notification,** they will only receive aggregate information to support mandatory state and federal reporting. DFS must report the number of infants born affected by substance abuse, withdrawal or an FASD, the number of those infants that received a plan of safe care, and the number of those plans that included referrals for the infant or caregiver.



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***In Wyoming, the following definitions are used to identify which infants require a plan of safe care:***

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- **Infant Prenatally Substance Exposed (IPSE):** there is presence of or self-disclosure of any substance use by the pregnant or birthing individual at any time during pregnancy.
- **Affected by Withdrawal:** a group of behavioral and physiological features in an infant that follow the abrupt discontinuation of a substance that has the capability of producing physical dependence, determined through use of appropriate assessment and diagnostic testing to rule out other causes.
- **Fetal Alcohol Spectrum Disorder:** a group of conditions that can occur in a person who was exposed to alcohol before birth. These effects can include physical problems and problems with behavior and learning.
- **Plan of Safe Care:** a plan designed to ensure the safety and wellbeing of an infant with prenatal substance use exposure following the infant's release from the care of a health care provider by addressing the health and substance use treatment needs of the infant and the affected family or caregiver. - W.S. § 35-2-1401(a)(iii)
- **Affected Family:** a family with a positive screen, toxicology, or self-disclosure of substance use of the pregnant or birthing individual during pregnancy.
- **Substance use:** the use of drugs or alcohol, including illegal drugs, or the misuse of prescription or over the counter medication.

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***Wyoming has identified the following situations where IPSE requires a report to the DFS intake line to screen for child protection concerns and the creation of a plan of safe care:***

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- Any case of a newborn infant with safety concerns related to abuse or neglect.
- A healthcare provider identifies immediate safety concerns for care of the infant that results from active substance use (illicit, prescribed, alcohol, etc.) by the parent and/or caregiver(s).

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***The following situations require a de-identified notification to DFS and a plan of safe care:***

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- A newborn is prenatally exposed to marijuana or other illicit substances and there are no safety concerns for the care of the infant.
- A healthcare provider verifies that the birthing parent is taking methadone or buprenorphine as prescribed and there are no safety concerns for the care of the infant.
- A healthcare provider verifies that the birthing parent is taking opioids as prescribed by their clinician, and there are no safety concerns for the care of the infant.
- A healthcare provider verifies that the birthing parent is taking any medication or combination of medications, with the potential for abuse, as prescribed by their clinician and there are no safety concerns for the care of the infant.

## Addendum

### Frequently Asked Questions

***Do I still call DFS when I have concerns about safety of an infant who is NOT substance exposed?***

Yes. If an individual has any concerns of abuse or neglect regarding the infant in the parent's care, they must follow mandatory reporting laws and call the local DFS office. The changes outlined above ensure that infants prenatally substance exposed receive a plan of safe care. This change does not impact mandatory reporting laws. Mandatory reporting laws remain in place.

***Do infants exposed to prescription medications require a plan of safe care?***

Depending on the circumstances, if an infant is exposed to controlled psychiatric medication and is affected by that exposure or there is an indication of a substance use disorder associated with the psychiatric medication, a plan of safe care is required. The plan of safe care is a supportive tool for families to ensure they are connected to services to support their health and well-being. W.S. 35-2-1401 requires a notification to DFS for any plan of safe care that is initiated for a family. If a health care provider involved in the delivery of an infant exposed to psychiatric medications has concerns about that infant's safety, they are required to call the DFS intake line.

***If the birthing parent is not misusing substances and the infant is not born substance exposed, but a caregiver is using substances, is a report to DFS required?***

No. Unless the caregiver is actively using substances that may pose a safety concern related to the care of the infant or other children in the home.

***Does the intensity of the withdrawal and/or the type of treatment influence whether a report or a notification is needed?***

No. Withdrawal is a medical condition that may result from prenatal exposure; the intensity of the withdrawal and treatment method are not factors in determining if DFS should receive a report or a de-identified notification. Health care providers should work with the birthing parent to determine if the withdrawal was due to a prescribed substance and to determine if the substance was taken as prescribed. Birthing parents misusing substances only require a report to DFS if there are safety concerns for the care of the infant accompanying the exposure.. Infants experiencing withdrawal due to nicotine do not require a report, notification or a plan of safe care, but a plan of safe care may be provided if the patient care team wants to.

***Marijuana may continue to show up in urine tests, even if the mother has quit using. If a birthing parent has a positive test, but reports no use in the last trimester, does she require a notification?***

Yes. If the birthing parent tests positive at birth or if the infant tests positive for marijuana, a notification to DFS and a plan of safe care are required.

**For further clarification, a full description of Wyoming's DFS reporting statute can be found [here](#).**



[WY Stat § 14-3-205 \(1997 through Reg Sess\)](#)