

# 10

## SUBSTANCE-EXPOSED INFANTS

### TABLE OF CONTENTS

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<b>10.1</b>	<b>Introduction .....</b>	<b>3</b>
<b>10.2</b>	<b>SEI Definitions .....</b>	<b>4</b>
<b>10.3</b>	<b>Mandated reporting of SEI .....</b>	<b>5</b>
10.3.1	Health care providers required to report SEI.....	6
10.3.1.1	First circumstance.....	6
10.3.1.2	Second circumstance.....	7
10.3.1.3	Third circumstance.....	7
10.3.1.4	Fourth circumstance .....	8
10.3.2	Health care provider responsibilities .....	8
10.3.2.1	Report to CPS.....	8
10.3.2.2	Report to the Community Services Board .....	8
10.3.3	Multidisciplinary teams .....	9
<b>10.4</b>	<b>Plan of safe care.....</b>	<b>9</b>
<b>10.5</b>	<b>CPS response to SEI referrals .....</b>	<b>10</b>
10.5.1	Determine the track.....	10
10.5.1.1	Track examples.....	10
10.5.2	Initial assessment.....	11
10.5.2.1	Substance use screening.....	12
10.5.3	Information to gather when responding to SEI referrals.....	13
10.5.4	Exception to completing the investigation or family assessment.....	14
10.5.5	Complete the family assessment or investigation .....	15
10.5.5.1	Collateral contacts in SEI referrals .....	15
10.5.5.2	Dispositions in SEI investigations.....	16
10.5.5.3	Assessing risk in SEI referrals .....	16

10.5.5.4	<i>Risk level guides decision to open a case</i> .....	17
10.5.6	Referral to early intervention programs for children .....	17
<b>10.6</b>	<b>CPS on-going services to families with SEI.....</b>	<b>18</b>
10.6.1	<i>Substance abuse services considerations</i> .....	18
10.6.2	<i>Other services</i> .....	19
<b>10.7</b>	<b>Petition the court on behalf of a SEI .....</b>	<b>20</b>
10.7.1	LDSS may petition juvenile and domestic relations district court .....	20
10.7.1.1	Petition must allege SEI.....	20
10.7.2	The court’s authority to issue orders.....	21
10.7.3	Any court order effective until investigation or family assessment is concluded .....	21
<b>10.8</b>	<b>Appendix A: Fetal Alcohol Spectrum Disorder (FASD).....</b>	<b>22</b>
10.8.1	Definition of FASD.....	22
10.8.2	Fetal Alcohol Syndrome (FAS) .....	22
10.8.3	Fetal alcohol effects (FAE) .....	23
10.8.4	Alcohol- related neurodevelopmental disorder (ARND) .....	23
10.8.5	Alcohol- related birth defects (ARBD).....	23
10.8.6	Cause of FASD .....	23
10.8.7	Prevalence of FASD.....	23
10.8.8	Assessment of FASD .....	23
10.8.9	Impact of FASD.....	24
<b>10.9</b>	<b>Appendix B: Neonatal Abstinence Syndrome (NAS) .....</b>	<b>25</b>
<b>10.10</b>	<b>Appendix C: Screening Tools Used with Pregnant or Postpartum Mothers .....</b>	<b>28</b>
10.10.1	DBDHS screening resource .....	28
10.10.2	<i>The 4 P’s</i> .....	28
10.10.3	<i>The 5 Ps</i> .....	28

# 10

## SUBSTANCE-EXPOSED INFANTS

### 10.1 Introduction

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The Code of Virginia § [63.2-1509 B](#) requires the local department of social services (LDSS) to accept as valid a report that a newborn infant may have been exposed to controlled substances prior to birth. This part of the CPS guidance chapter explains how the Code of Virginia impacts:

- Mandated reporting of substance-exposed infants (*SEI*) and the validity decision.
- CPS family assessments and investigations.
- Services to the families of *SEI*.
- Possible court actions.

*In utero substance exposure can cause or contribute to premature birth, low birth weight, increased risk of infant mortality, neurobehavioral and developmental complications. Post-natal environmental factors associated with maternal substance use such as poverty, neglect and unstable or stressful home environments present additional risks for these children.*

*Interventions to reduce adverse outcomes and promote healthy home environments are critical to the well-being of *SEI* and their families.*

*Additional information on *SEI* and maternal substance use can be found by accessing:*

- *CWSE5501: Substance Abuse. This on-line course has four (4) modules and is available in the [Knowledge Center](#).*
- *[National Center on Substance Abuse and Child Welfare](#), including an online tutorial, “Understanding Substance Use Disorders, Treatment, and Family Recovery: A Guide for Child Welfare Professionals.”*
- *[Children and Family Futures](#). This agency provides a library of various recorded webinars conducted in 2015 regarding *SEI* and child welfare.*

- [Substance Abuse and Mental Health Services Administration](#) (SAMHSA) is the agency within the U.S. Department of Health and Human Services that leads public health efforts to advance the behavioral health of the nation.
- [Virginia Department of Behavioral Health and Developmental Services](#) (DBHDS) provide resources for pregnant and parenting women and their families.

## **10.2 SEI Definitions**

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The following definitions pertain to substance use disorders and SEI referrals:

<b>Term</b>	<b>Definition</b>
<b>Assessment- (Substance Use)</b>	<i>Assessment refers to an in-depth look at an individual's past and current substance use and the impact of that use on the overall functioning of that individual. Assessment is a process for defining the nature of that problem, determining a diagnosis, and developing specific treatment recommendations for addressing the problem or diagnosis.</i>
<b>Dual diagnosis</b>	<i>Dual diagnosis refers to co-occurring Mental Health and Substance Use disorders (alcohol and/or drug dependence or abuse).</i>
<b>Fetal Alcohol Spectrum Disorder (FASD)</b>	<i>Fetal alcohol spectrum disorders (FASD) is an umbrella term describing the range of effects that can occur in an individual whose mother drank alcohol during pregnancy. These effects may include physical, mental, behavioral, or learning disabilities with possible lifelong implications. See <a href="#"><u>Appendix A</u></a> for more information.</i>
<b>Neonatal Abstinence Syndrome (NAS)</b>	<i>Neonatal abstinence syndrome (NAS) is a group of problems that occur in a newborn as a result of sudden discontinuation of addictive opioids, licit or illicit, to which the newborn was exposed while in the mother's womb. See <a href="#"><u>Appendix B</u></a> for more information.</i>
<b>Opioid Treatment Program (OTP)</b>	<p><i>An Opioid Treatment Program (OTP) provides medication assisted treatment for the treatment of opioid addiction. OTPs may also provide comprehensive, individually tailored programs that can include:</i></p> <ul style="list-style-type: none"> <li>• <i>Medication therapy</i></li> <li>• <i>Psychosocial and medical treatment</i></li> <li>• <i>Support services that address factors affecting the</i></li> </ul>

*client.*

**Screening**

*A screening is a brief preliminary interview with an individual intended to determine if that individual may be at risk to have problems in a certain area such as substance abuse. Screening does not identify substance abuse or dependency nor does it provide a substance use disorder diagnosis. It is a quick way to determine if someone needs to be referred for further assessment.*

**Screening tools**

*Screening tools have been developed to help identify individuals at risk for various disorders or problems such as substance use disorders or domestic violence. See [Appendix C](#) for two screening tools used to help identify substance abuse.*

**Substance abuse counseling or treatment services**

*These are professional services provided to individuals for the prevention, diagnosis, or treatment of chemical dependency. Substance abuse counseling or treatment should include education about the impact of alcohol and other drugs on the fetus and on the maternal relationship; and education about relapse prevention to recognize personal and environmental cues which may trigger a return to the use of alcohol or other drugs. The substance abuse counseling or treatment services must be provided by a professional (e.g., a “certified substance abuse counselor” or a “licensed substance abuse treatment practitioner”).*

### 10.3 Mandated reporting of SEI

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*The Code of Virginia and the Virginia Administrative Code (VAC) provide for the mandated reporting of SEI.*

([22 VAC 40-705-40 A5](#)). Pursuant to [§ 63.2-1509 B](#) of the Code of Virginia, a "reason to suspect that a child is abused or neglected" shall include (i) a finding made by a health care provider within six weeks of the birth of a child that the results of toxicology studies of the child indicate the presence of a controlled substance that was not prescribed for the mother by a physician; (ii) a finding made by a health care provider within six weeks of the birth of a child that the child was born dependent on a controlled substance that was not prescribed by a physician for the mother and has demonstrated withdrawal symptoms; (iii) a diagnosis made by a health care provider at any time following a child's birth that the child has an illness, disease, or condition which, to a reasonable degree of medical certainty, is attributable to in utero exposure to a controlled substance that was not prescribed by a physician for the mother or the child; or (iv) a diagnosis made by a health care provider at

any time following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol. When "reason to suspect" is based upon this subsection, such fact shall be included in the report along with the facts relied upon by the person making the report. Any report made pursuant to § [63.2-1509](#) A of the Code of Virginia constitutes a valid report of abuse or neglect and requires a child protective services investigation or family assessment, unless the mother sought treatment or counseling as required in this section and pursuant to § [63.2-1505](#) B of the Code of Virginia.

a. Pursuant to § [63.2-1509](#) of the Code of Virginia, whenever a health care provider makes a finding pursuant to § [63.2-1509](#) A of the Code of Virginia, then the health care provider or his designee must make a report to child protective services immediately. Pursuant to § [63.2-1509](#) D of the Code of Virginia, a health care provider who fails to make a report pursuant to § [63.2-1509](#) A of the Code of Virginia is subject to a fine.

b. When a report or complaint alleging abuse or neglect is made pursuant to § [63.2-1509](#) A of the Code of Virginia, then the local department must immediately assess the infant's circumstances and any threat to the infant's health and safety. Pursuant to [22VAC40-705-110](#) A, the local department must conduct an initial assessment.

### 10.3.1 Health care providers required to report SEI

The Code of Virginia requires health care providers to make a report of abuse or neglect when there is a reason to suspect that a mother exposed a newborn infant to controlled substances during the pregnancy.

*Health care providers identify SEI typically by use of clinical indicators that include but are not limited to maternal and infant presentation at birth, substance use and medical histories or toxicology results.*

The Code of Virginia specifically delineates four (4) circumstances *which constitute a reason to suspect that a newborn infant was exposed to a controlled substance during pregnancy and therefore requires a report to CPS by healthcare providers.*

#### 10.3.1.1 First circumstance

*([22 VAC 40-705-40 A5](#)). (i) a finding made by a health care provider within six weeks of the birth of a child that the results of toxicology studies of the child indicate the presence of a controlled substance that was not prescribed for the mother by a physician;*

*The first circumstance is toxicology studies of the infant conducted after an infant's birth which indicates the presence of a controlled substance. A physician must not have prescribed the controlled substance for the mother.*

The findings of the toxicology studies must be made within six (6) weeks of the child's birth by a health care provider.

*Toxicology studies of the infant may indicate the presence of substances prescribed for the mother **and** substances **not** prescribed for the mother. It is important to clarify which substances have been prescribed. Toxicology studies may include, but are not limited to blood or urine testing, hair analysis, umbilical cord or meconium testing. Blood and urine testing are only accurate for recent use i.e. 24-72 hours.*

#### **10.3.1.2 Second circumstance**

*([22 VAC 40-705-40 A5](#)). (ii) a finding made by a health care provider within six weeks of the birth of a child that the child was born dependent on a controlled substance that was not prescribed by a physician for the mother and has demonstrated withdrawal symptoms;*

*The second circumstance is within six (6) weeks of the infant's birth, a health care provider can find that the infant was born dependent on a controlled substance and demonstrated withdrawal symptoms. A physician must not have prescribed the controlled substance for the mother.*

*In utero exposure to certain drugs can cause neonatal withdrawal after birth when the drug is abruptly stopped because the infant, like the mother, has developed physical dependence on the drug. Clinically relevant neonatal withdrawal most commonly results from in utero opioid exposure but has also been described in infants exposed to benzodiazepines, barbiturates, and alcohol. Neonatal Abstinence Syndrome (NAS) is a group of problems that occur in a newborn as a result of sudden discontinuation of addictive opioids, licit or illicit, to which the newborn was exposed while in the mother's womb. Additional information regarding NAS can be found in [Appendix B](#).*

#### **10.3.1.3 Third circumstance**

*([22 VAC 40-705-40 A5](#)). (iii) a diagnosis made by a health care provider at any time following a child's birth that the child has an illness, disease, or condition which, to a reasonable degree of medical certainty, is attributable to in utero exposure to a controlled substance that was not prescribed by a physician for the mother or the child;*

*The third circumstance is any time after a child's birth, a health care provider can diagnose the child as having an illness, disease or condition which, to a reasonable degree of medical certainty, is attributable to in utero exposure to a controlled substance. A physician must not have prescribed the controlled substance for the mother or the child.*

#### 10.3.1.4 *Fourth circumstance*

*([22 VAC 40-705-40 A5](#)). (iv) a diagnosis made by a health care provider at any time following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol.*

*The fourth circumstance is any time after a child's birth, a health care provider can make the diagnosis that the child has a fetal alcohol spectrum disorder (FASD) attributable to in utero exposure to alcohol. See [Appendix A](#) of this section for additional information regarding FASD.*

### 10.3.2 Health care provider responsibilities

#### 10.3.2.1 Report to CPS

*([22 VAC 40-705-40 A5](#)). Pursuant to § [63.2-1509](#) of the Code of Virginia, whenever a health care provider makes a finding pursuant to § [63.2-1509](#) A of the Code of Virginia, then the health care provider or his designee must make a report to child protective services immediately. Pursuant to § [63.2-1509](#) D of the Code of Virginia, a health care provider who fails to make a report pursuant to § [63.2-1509](#) A of the Code of Virginia is subject to a fine.*

Whenever a health care provider makes a finding of one (1) of the four (4) circumstances above, the health care provider shall make a report to CPS as soon as possible, but no longer than **24 hours** after having reason to suspect a reportable offense.

*When reporting SEI, health care providers are required to release, upon request, medical records that document the basis of the report. Disclosure of child abuse or neglect information is also permitted by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and federal Confidentiality of Alcohol and Drug Abuse Patient Information Regulations. ([CFR 42 Part 2](#))*

#### 10.3.2.2 Report to the Community Services Board

The Code of Virginia § [32.1-127 B6](#) requires that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The discharge plan should be discussed with the patient and appropriate referrals made and documented. *The discharge planning process shall involve, to the extent possible, the father of the infant and any members of the mother's extended family who may participate in the follow-up care for the mother and the infant.* Hospitals are required to notify the Community Services Board (CSB) of the jurisdiction in which the woman resides to appoint a discharge

plan manager for any identified substance-abusing postpartum woman. The CSB shall implement and manage the discharge plan.

#### **10.3.2.2.1 Hospital discharge plan**

*Post-partum women with substance use disorders and their newborns may have multiple health care, treatment, safety and environmental needs. Their hospital discharge plans should include, but are not limited to:*

- *A referral of the mother to the local CSB for a substance use assessment and implementation of the discharge plan.*
- *Information and medical directives regarding potential postpartum complications and, as appropriate, indicators of substance use withdrawal and post-partum depression.*
- *A follow-up appointment for pediatric care for the infant within two-four weeks.*
- *A referral to early intervention Part C services for a developmental assessment and early intervention services for the infant.*
- *A follow-up appointment for the mother for postpartum gynecologic care and family planning.*

*The CPS worker should obtain a copy of the hospital discharge plan and document the details in the automated data system.*

#### **10.3.3 Multidisciplinary teams**

*In SEI cases, working collaboratively with a CSB and other healthcare professionals requires a coordinated approach. It is recommended that the LDSS establish a memorandum of understanding or a multi-disciplinary team to facilitate communication and collaboration between all involved agencies. See Section 1.6 in [Section 1, Introduction to CPS](#) of this guidance manual for more information and guidance regarding multi-disciplinary teams.*

### **10.4 Plan of safe care**

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*[Section 106\(b\)\(2\)\(B\)\(iii\) of the Child Abuse Prevention and Treatment Act \(CAPTA\)](#) requires “the development of a plan of safe care for the infant born and identified as being affected by illegal substance abuse or withdrawal symptoms or Fetal Alcohol Spectrum Disorder”. The plan of safe care should address the needs of the child as well as those of the parent, as appropriate, and assure that appropriate services are provided to ensure the infant’s safety.*

*A plan of safe care should begin when the mother is pregnant and be initiated by her healthcare providers. Once the LDSS becomes involved in a SEI referral, the LDSS becomes a part of this plan of safe care. The LDSS is one of many agencies that can provide a plan of safe care for the SEI and the mother.*

*A plan of safe care should incorporate the mother's (and potentially the other primary caregiver's) need for treatment for substance use and mental disorders, appropriate care for the infant who may be experiencing neurodevelopmental or physical effects or withdrawal symptoms from prenatal substance exposure and services and supports that strengthen the parents' capacity to nurture and care for the infant and to ensure the infant's continued safety and well-being. The plan should also ensure a process for continued monitoring of the family and accountability of responsible agencies such as substance use disorder treatment, home visiting, and public health and health care providers for the infant and mother.*

## **10.5 CPS response to SEI referrals**

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*A report with facts indicating the presence of one of the four (4) circumstances outlined in the Code of Virginia § [63.2-1509 B](#) prior to birth are sufficient, in and of themselves, to suspect that the child is abused or neglected and therefore constitutes a valid report requiring a CPS response.*

*Substance use, either during pregnancy or after the birth of an infant, does not in or of itself constitute a preponderance of evidence needed to substantiate abuse or neglect. In some cases, caretakers may remain able to care for the child. The use or abuse of drugs by caretakers increases the concern for the child's immediate safety and for future risk of harm to the child. When identified, a careful evaluation needs to be made of the impact that the substance use has on the caretaker's capacity to care for the child and the ability to ensure the child's safety and well-being. Such an evaluation will determine whether the child is at substantial risk of harm.*

### **10.5.1 Determine the track**

*Once a report has been made and determined to be valid, the LDSS must determine the response time and track. Validated referrals involving SEI may be placed in the investigation or family assessment track. Because exposure to controlled substances prior to birth is not sufficient evidence for a founded disposition of abuse or neglect *in an investigation*, a family assessment that assesses safety, risk and service needs of the child and family *and does not determine if abuse or neglect has occurred*, may be a more appropriate response.*

#### **10.5.1.1 Track examples**

*A family assessment may be a more appropriate response if:*

- *This is the first CPS report involving the family, no other CPS history.*

- *There is an indication of a strong support system.*
- *The mother has engaged or demonstrated a commitment to engaging in substance abuse services.*

*An investigation may be a more appropriate response if:*

- *There has been prior CPS involvement involving substance use.*
- *The mother has extensive history of a substance use disorder.*
- *There is no indication of a support system.*
- *The report identifies other abuse or neglect such as no preparation for the baby or homelessness.*
- *Court action seems likely.*

*Important reminder: if the child is removed, the track must be changed to an investigation. The LDSS must document in the automated data system at least one of the conditions for removal as “substance exposed infant”.*

### 10.5.2 Initial assessment

[\(22 VAC 40-705-40 A 5 b\)](#). When a report or complaint alleging abuse or neglect is made pursuant to [§ 63.2-1509 B](#) of the Code of Virginia, then the local department must immediately assess the infant's circumstances and any threat to the infant's health and safety. Pursuant to [22 VAC 40-705-110 A](#), the local department must conduct an initial assessment.

[\(22 VAC 40-705-40 A 5 c\)](#). When a report or complaint alleging abuse or neglect is made pursuant to [§ 63.2-1509 B](#) of the Code of Virginia, then the local department must immediately determine whether to petition a juvenile and domestic relations district court for any necessary services or court orders needed to ensure the safety and health of the infant.

The LDSS must complete an initial safety assessment of the *SEI and family*. *All reports involving a SEI will require a safety plan be developed because of the safety concerns regarding these infants.*

*When assessing safety factors, it is critical to review the definitions for each safety factor. There are several safety factors that involve substance usage and a SEI. The following safety factors will likely pertain to a SEI referral:*

- *Safety factor 1. Caretaker caused serious physical harm to the child and/or made a plausible threat to cause physical harm in the current*

investigation/assessment. May select h. Drug-exposed infant. Drugs are found in the child's system; infant is medically fragile as result of drug exposure; infant suffers adverse effects from introduction of drugs during pregnancy; or mother tested positive at delivery.

- Safety factor 10. Caretaker's substance use is currently and seriously affecting his/her ability to supervise, protect, or care for child. Caretaker is abusing legal or illegal substances or alcoholic beverages to the extent that control of his or her actions is significantly impaired. May select b. There is a current, ongoing pattern of substance abuse that leads directly to neglect and/or abuse of the child.

#### 10.5.2.1 Substance use screening

An essential part of the initial safety assessment is to complete a brief substance use screening to determine if a substance abuse assessment is needed and if so, what services would best meet the needs of the mother. A substance use screening should include questions concerning:

- Frequency and amount of alcohol consumption prior to and during pregnancy;
- Frequency and amounts of over-the-counter prescriptions and illicit drugs prior to and during pregnancy;
- Effects of substance use on life areas such as relationships, employment, legal, etc.;
- Other parent or partner substance use;
- Previous referrals for substance abuse evaluation or treatment; and
- Previous substance use treatment or efforts to seek treatment<sup>1</sup>.

Two (2) of several universal substance use screening tools used with pregnant and child bearing women (the 4 Ps and 5 Ps) can be found in [Appendix C](#). This screening and safety assessment may lead to consideration of court action or the need to conduct a Family Partnership Meeting (FPM) or both. Additional information regarding screening of pregnant and postpartum women can be found on the [DBDHS website](#).

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<sup>1</sup> See section [10.5.4](#) if the mother indicates she had received or sought substance abuse counseling or treatment.

*Initial contacts in SEI cases should include not only the mother and any other parent but also the family's support system. Collateral contacts can confirm or refute information provided by the mother.*

### **10.5.3 Information to gather when responding to SEI referrals**

*In addition to conditions in the infant, conditions or behaviors in the mother that may indicate risk of harm should be assessed. These include, but are not limited to:*

- *special medical and/or physical problems in the infant;*
- *close medical monitoring and/or special equipment or medications needed by the infant;*
- *no prenatal care or inconsistent prenatal care;*
- *previous delivery of a SEI;*
- *prior CPS history;*
- *prior removal of other children by the courts or voluntary placement with relatives;*
- *no preparations for the care of the infant;*
- *intellectual limitations that may impair the mother's ability to nurture or physically care for the child;*
- *psychiatric illness;*
- *home environment that presents safety or health hazards;*
- *evidence of financial instability that affects the mother's ability to nurture or physically care for the infant;*
- *limited or no family support;*
- *young age of parent(s), coupled with immaturity;*
- *parenting skills demonstrated in the health care setting that suggest a lack of responsiveness to the SEI's needs (i.e., little or no response to infant's crying, poor eye contact, resistance to or difficulties in providing care);*
- *domestic violence.*

#### 10.5.4 Exception to completing the investigation or family assessment

([22 VAC 40-705-40 A 5 d](#)). Within five days of receipt of a report made pursuant to [§ 63.2-1509 A](#) of the Code of Virginia, the local department shall invalidate the complaint if the following two conditions are met: (i) the mother of the infant sought substance abuse counseling or treatment during her pregnancy prior to the infant's birth and (ii) there is no evidence of child abuse and/or neglect by the mother after the infant's birth.

(1) The local department must notify the mother immediately upon receipt of a complaint made pursuant to [§ 63.2-1509 B](#) of the Code of Virginia. This notification must include a statement informing the mother that, if the mother fails to present evidence within five days of receipt of the complaint that she sought substance abuse counseling/treatment during the pregnancy, the report will be accepted as valid and an investigation or family assessment initiated.

(2) If the mother sought counseling or treatment but did not receive such services, then the local department must determine whether the mother made a substantive effort to receive substance abuse treatment before the child's birth. If the mother made a substantive effort to receive treatment or counseling prior to the child's birth, but did not receive such services due to no fault of her own, then the local department should invalidate the complaint or report.

(3) If the mother sought or received substance abuse counseling or treatment, but there is evidence, other than exposure to a controlled substance, that the child may be abused or neglected, then the local department may initiate the investigation or family assessment.

The Code of Virginia [§ 63.2-1505 B](#) provides an exception to completing an investigation in referrals involving a *SEI* when certain circumstances exist. It is incumbent upon the mother of the infant to present the evidence that she sought or gained substance abuse counseling or treatment prior to the child's birth *and during the mother's pregnancy*. *The LDSS must verify any evidence provided by the mother.*

([§ 63.2-1505 B 2](#)) Complete a report and transmit it forthwith to the Department, except that no such report shall be transmitted in cases in which the cause to suspect abuse or neglect is one of the factors specified in subsection B of [§ 63.2-1509](#) and the mother sought substance abuse counseling or treatment prior to the child's birth;

Even if the mother sought treatment, the LDSS *should* continue *with the* family assessment *or investigation based* upon the fact that the report was valid and the need to assess services to remedy or prevent child maltreatment are appropriate. *If the LDSS determines no further action is required by the LDSS, appropriate referrals should be made to monitor the discharge plan.*

An investigation or family assessment *shall* continue if there is an additional allegation of abuse or neglect, or other evidence that the *SEI* is experiencing a threat of harm, *such as maternal substance use*.

### 10.5.5 Complete the family assessment or investigation

(22 VAC 40-705-40 A5 d 3 h). Facts indicating that the infant may have been exposed to controlled substances prior to birth are not sufficient, in and of themselves, to render a founded disposition of abuse or neglect. The local department must establish, by a preponderance of the evidence, that the infant was abused or neglected according to the statutory and regulatory definitions of abuse and neglect.

Family assessments or investigations involving a *SEI* shall be conducted in accordance with [Section 4, Family Assessment and Investigation](#) of this guidance manual.

#### 10.5.5.1 Collateral contacts in *SEI* referrals

Due to the vulnerability of *the SEI*, collateral involvement to determine risk and possible services is crucial, and may include contacts with the *immediate or extended* family, *birthing* hospital, pediatrician, and substance use disorder evaluation and treatment providers. When appropriate, the LDSS should coordinate services with the CSB.

*At the minimum, contact should be made with healthcare providers, particularly those at the birthing hospital in order to obtain a copy of the discharge plan and gather information:*

- *to determine the results of laboratory tests or toxicology studies that confirm the newborn infant was exposed in utero to controlled substances;*
- *to identify any needed medical treatment for the child or mother;*
- *to assess the mother's attitude and behavior with the infant;*
- *to determine the expected discharge dates of the mother and infant; and*
- *to determine whether there are other children in the home at risk.*

*Contact with the substance use disorder treatment provider can provide information on the mother's:*

- *attempts to access treatment;*
- *compliance with recommendations;*

- *toxicology results, if applicable;*
- *assessment results, if applicable; and*
- *medication assisted treatment dosage and compliance.*

#### **10.5.5.2 Dispositions in SEI investigations**

For investigations, facts establishing that the infant was exposed to controlled substances prior to birth are not sufficient to render a founded disposition of abuse or neglect. The LDSS must establish by a preponderance of the evidence that the infant was injured or experienced a threat of injury or harm according to the statutory and regulatory definitions of abuse and neglect to support a founded disposition.

#### **10.5.5.3 Assessing risk in SEI referrals**

*The Family Risk Assessment tool is used to assess future likelihood of child maltreatment in all referrals, including a SEI.*

*When assessing risk, it is critical to review the definitions for each factor. There are several risk factor definitions that specifically address the SEI and their caretakers. The following risk factors will likely pertain to a SEI referral:*

- *N1: Current complaint is for physical or medical neglect. (Score 2 if the current allegation is for a substance exposed infant.)*
- *N9: Primary caretaker has/had a drug or alcohol problem. (Score 2 if the child was diagnosed with fetal alcohol syndrome or exposure or child had a positive toxicology screen at birth and the primary caretaker was the birthing parent.)*
- *N11: Characteristics of children in household. (Score 1 if a child has a positive toxicology report for alcohol or another drug at birth.)*

*Assessed risk will be:*

- **Low.** *The assessment of risk related factors indicates that there is a low likelihood of future abuse or neglect and no further intervention is needed.*
- **Moderate.** *The assessment of risk related factors indicates that there is a moderate likelihood of future abuse or neglect and minimal intervention may be needed.*

- **High.** The assessment of risk related factors indicates there is a high likelihood of future abuse or neglect without intervention.
- **Very High.** The assessment of risk-related factors indicates there is a very high likelihood of future abuse or neglect without intervention.

Overrides, either by policy or discretionary, may increase risk one level and require supervisor approval. The initial CPS risk level may never be decreased.

#### **10.5.5.4 Risk level guides decision to open a case**

*Important reminder: when risk is clearly defined and objectively quantified, resources are targeted to higher-risk families because of the greater potential to reduce subsequent maltreatment. The risk level helps inform the decision whether or not to open a case as follows:*

Low Risk: Close  
Moderate Risk: Open to CPS or close  
**High Risk: Open to CPS**  
**Very High Risk: Open to CPS**

*The CPS worker and CPS supervisor should assess the decision to open a case for services and document in the automated data system when the decision is to not open a case.*

#### **10.5.6 Referral to early intervention programs for children**

*Regardless if a CPS on-going case is opened for services, the LDSS shall refer any child under the age of three (3) for early prevention services to the local Infant and Toddler Connection of Virginia who:*

- Is identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure;
- Is the subject of an investigation with a founded disposition; or
- Has a physical or mental condition that has a high probability of resulting in developmental delay, regardless of track or disposition.

All localities are served by an Infant & Toddler Connection of Virginia program. This referral is required by the Child Abuse Prevention and Treatment Act (CAPTA).

LDSS are encouraged to meet with the local Infant and Toddler program to learn about any referral issues that should be explained to the parent. LDSS are also encouraged to develop procedures with the Infant & Toddler Connection of Virginia

program to make referrals of certain children under age three (3). Recommended elements of these procedures should include:

- As soon as possible but no later than **seven (7) calendar days** of completing the investigation or family assessment the LDSS should send a referral to the local Part C Early Intervention program using the local referral form.

The LDSS should:

- Send a referral as soon as possible when a child has been identified as exposed prenatally to an illegal substance or has withdrawal symptoms at birth.
- Send a copy of the referral to the family. The parent should also be informed verbally of the referral and have an opportunity to discuss the referral process.
- Request the family to sign a release form allowing the exchange of information between the Infant-Toddler Connection Program and the LDSS regarding the referral.
- Document the notification and referral in the state automated data system.

More information on the Infant & Toddler programs in Virginia can be found on the [Infant & Toddler Connection of Virginia website](#) and on the VDSS internal website in the [Memorandum of Agreement](#) dated May 2013 issued by the Commissioners of the Department of Social Services and Department of Behavioral Health and Developmental Services and other agencies involved with implementation of Part C of the Individuals with Disabilities Education Act (IDEA).

## 10.6 CPS on-going services to families with SEI

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*Services for mothers with substance use disorders and their families may be different than services for other populations. A thorough assessment done by a certified substance abuse counselor will typically be the first step in providing services for SEI referrals. Assessment refers to an in-depth look at an individual's past and current substance use and the impact of that use on the overall functioning of that individual. Assessment is a process for defining the nature of that problem, determining a diagnosis, and developing specific treatment recommendations for addressing the problem or diagnosis.*

### 10.6.1 Substance abuse services considerations

*Special consideration should be given to the following:*

- *Is outpatient treatment needed and available?*

- *Is in-patient treatment required and available?*
- *Is detoxification required?*
- *Does the individual need a program for dual diagnosed patients?*
- *Does the individual need assistance in negotiating leave with an employer?*
- *Does the individual require a program that specializes in a particular addiction?*
- *Are family members willing to participate in treatment or education?*
- *Is peer support available through Alcoholics Anonymous (AA), Narcotics Anonymous (NA) or a psychotherapy group?*
- *Does the treatment facility address the special needs of women and their children?*

#### **10.6.2 Other services**

*In addition to substance abuse services, other services may include but are not limited to:*

- *Child care.*
- *Relapse prevention.*
- *Parenting education.*
- *Job skills training/employment.*
- *Mental health assistance.*
- *Safe housing.*
- *Support systems.*

*Home visiting services match parents and caregivers with trained paraprofessionals who can provide information and support during pregnancy and throughout the child's earliest years. Home visiting programs support healthy prenatal behaviors and parenting attitudes, engage infants in meaningful learning activities build positive parent-child relationships and promote family self-sufficiency. Project Link is one home visiting program offered in Virginia and is specifically for pregnant and parenting substance-using women. For additional information about Project Link and*

other home visiting programs, such as Healthy Families, go to the [Virginia Home Visiting Consortium website](#).

## 10.7 Petition the court on behalf of a SEI

When conducting a family assessment or investigation, the Code of Virginia § [16.1-241.3](#) also permits the LDSS to petition the juvenile and domestic relations district court solely because an infant has been exposed to controlled substances prior to his or her birth.

(§ [16.1-241.3](#) of the Code of Virginia). Newborn children; substance abuse.

Upon the filing of a petition alleging that an investigation has been commenced in response to a report of suspected abuse or neglect of the child based upon a factor specified in subsection B of § [63.2-1509](#), the court may enter any order authorized pursuant to this chapter which the court deems necessary to protect the health and welfare of the child pending final disposition of the investigation pursuant to Chapter 15 (§ [63.2-1500](#) et seq.) of Title 63.2 or other proceedings brought pursuant to this chapter. Such orders may include, but shall not be limited to, an emergency removal order pursuant to § [16.1-251](#), a preliminary protective order pursuant to § [16.1-253](#) or an order authorized pursuant to subdivisions 1 through 4 of subsection A of § [16.1-278.2](#). The fact that an order was entered pursuant to this section shall not be admissible as evidence in any criminal, civil or administrative proceeding other than a proceeding to enforce the order.

The order shall be effective for a limited duration not to exceed the period of time necessary to conclude the investigation and any proceedings initiated pursuant to Chapter 15 (§ [63.2-1500](#) et seq.) of Title 63.2, but shall be a final order subject to appeal.

### 10.7.1 LDSS may petition juvenile and domestic relations district court

The LDSS should consult with their attorneys when considering petitioning for protective and removal orders as described in [Section 8, Judicial Proceedings](#), of this guidance manual.

The LDSS may petition a juvenile and domestic relation district court for any necessary services or court orders needed to ensure the safety and health of the infant.

#### 10.7.1.1 Petition must allege SEI

The LDSS must state in the petition presented to the court that a CPS investigation or family assessment has been commenced in response to a report of suspected abuse or neglect of the child based upon a factor specified in § [63.2-1509 B](#) of the Code of Virginia.

### **10.7.2 The court's authority to issue orders**

The court may enter any order authorized pursuant to [§ 16.1-226](#) et seq. which the court deems necessary to protect the health and welfare of the child. The court may issue such orders as an emergency removal order pursuant to [§ 16.1-251](#), a preliminary protective order pursuant to [§ 16.1-253](#) or an order authorized pursuant to [§ 16.1-278.2 A](#).

For example, such authority would allow the court to remove the child from the custody of the mother pending completion of the investigation or family assessment or compel the mother to seek treatment or other needed services. Code of Virginia [§ 16.1-241.3](#) enhances the court's ability to act quickly in a potentially crisis situation. In addition, the court will have the ability to use its authority to ensure that the mother of the child seeks treatment or counseling.

### **10.7.3 Any court order effective until investigation or family assessment is concluded**

Any court order issued pursuant to [§ 16.1-241.3](#) is effective pending final disposition of the investigation or family assessment pursuant to [§ 63.2-1500](#) et seq. The order is effective for a limited duration not to exceed the period of time necessary to conclude the investigation or family assessment and any proceedings initiated pursuant to [§ 63.2-1500](#) et seq.

Any order issued pursuant to [§ 16.1-241.3](#) is considered a final order and subject to appeal. The fact that an order was entered pursuant to [§ 16.1-241.3](#) is not admissible as evidence in any criminal, civil or administrative proceeding other than a proceeding to enforce the order.

## 10.8 Appendix A: Fetal Alcohol Spectrum Disorder (FASD)

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### 10.8.1 Definition of FASD

Experts now know that the effects of prenatal alcohol exposure extend beyond Fetal Alcohol Syndrome (FAS).

“Fetal alcohol spectrum disorders” (FASD) is an umbrella term describing the range of effects that can occur in an individual whose mother drank alcohol during pregnancy. These effects may include physical, mental, behavioral, and/or learning disabilities with possible lifelong implications. FASD is not a diagnostic term used by clinicians. It refers to conditions such as:

- FAS, including partial FAS
- Fetal alcohol effects (FAE)
- Alcohol-related neurodevelopmental disorder
- Alcohol-related birth defects

### 10.8.2 Fetal Alcohol Syndrome (FAS)

FAS consists of a pattern of neurologic, behavioral, and cognitive deficits that can interfere with growth, learning, and socialization. FAS has four (4) major components:

- A characteristic pattern of facial abnormalities (small eye openings, indistinct or flat philtrum, thin upper lip)
- Growth deficiencies, such as low birth weight
- Brain damage, such as small skull at birth, structural defects, and neurologic signs, including impaired fine motor skills, poor eye-hand coordination, and tremors
- Maternal alcohol use during pregnancy

Behavioral or cognitive problems may include mental retardation, learning disabilities, attention deficits, hyperactivity, poor impulse control, and social, language, and memory deficits.

Partial FAS describes persons with confirmed alcohol exposure, facial anomalies, and one other group of symptoms (growth retardation, central nervous system defects, or cognitive deficits).

### **10.8.3 Fetal alcohol effects (FAE)**

FAE describes children with prenatal alcohol exposure who do not have all the symptoms of FAS. Many have growth deficiencies, behavior problems, cognitive deficits, and other symptoms. However, they do not have the facial features of FAS. Although the term FAE is still used, the Institute of Medicine has coined more specific terms. These include alcohol-related neurodevelopmental disorder and alcohol-related birth defects.

### **10.8.4 Alcohol- related neurodevelopmental disorder (ARND)**

ARND refers to various neurologic abnormalities, such as problems with communication skills, memory, learning ability, visual and spatial skills, intelligence, and motor skills. Children with ARND have central nervous system deficits but not all the physical features of FAS. Their problems may include sleep disturbances, attention deficits, poor visual focus, increased activity, delayed speech, and learning disabilities.

### **10.8.5 Alcohol- related birth defects (ARBD)**

ARBD describe defects in the skeletal and major organ systems. Virtually every defect has been described in some patient with FAS. They may include abnormalities of the heart, eyes, ears, kidneys, and skeleton, such as holes in the heart, underdeveloped kidneys, and fused bones.

### **10.8.6 Cause of FASD**

The only cause of FASD is alcohol use during pregnancy. When a pregnant woman drinks, the alcohol crosses the placenta into the fetal blood system. Thus, alcohol reaches the fetus, its developing tissues, and organs. This is how brain damage occurs, which can lead to mental retardation, social and emotional problems, learning disabilities, and other challenges. No alcohol consumption is safe during pregnancy. In addition, the type of alcohol (beer, wine, hard liquor, wine cooler, etc.) does not appear to make a difference.

### **10.8.7 Prevalence of FASD**

FASD occurs in about 10 per 1,000 live births or about 40,000 babies per year. FAS, the most recognized condition in the spectrum, are estimated to occur in 0.5 to 2 per 1,000 live births. It now outranks Down syndrome and autism in prevalence.

### **10.8.8 Assessment of FASD**

It is extremely difficult to diagnose a FASD. A team of professionals is needed, including a physician, psychologist, speech pathologist, and physical or occupational therapist. Diagnostic tests may include physical exams, intelligence tests, and

occupational and physical therapy, psychological, speech, and neurologic evaluations. Diagnosis is easier if the birth mother confirms alcohol use during pregnancy. However, FAS can be diagnosed without confirming maternal alcohol use, if all the symptoms are present.

#### **10.8.9 Impact of FASD**

Children with FASD often grow up with social and emotional problems. They may have mental illness or substance abuse problems, struggle in school, and become involved with the corrections system. Costs of FAS alone are estimated at between one (1) and five (5) million dollars per child, not including incarceration. This estimate does not include cost to society, such as lost productivity, burden on families, and poor quality of life.

More information regarding FASD may be accessed at:

[Fetal Alcohol Spectrum Disorder Center for Excellence.](#)

## ***10.9 Appendix B: Neonatal Abstinence Syndrome (NAS)***

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- *What is Neonatal Abstinence Syndrome (NAS)?*
  - *NAS is a group of problems that occur in a newborn as a result of sudden discontinuation of addictive opioids, licit or illicit, to which the newborn was exposed while in the mother's womb.*
  
- *What causes NAS?*
  - *Almost all drugs pass through the placenta and into the fetus when the mother is pregnant and can cause the fetus to become dependent. At birth, the baby's dependence on that drug continues, however, since the drug is no longer available the baby's central nervous system becomes overstimulated causing symptoms of withdrawal.*
  
  - *Infants born to mothers participating in medication assisted treatment (MAT) programs are likely to present with NAS; yet MAT is an EBP for pregnant women that results in better outcomes for mothers with opioid use disorders and her infants (workers need to understand it is better for mom and baby both to be on MAT)*
  
- *Why is NAS a concern?*
  - *When a mother uses illicit substances, she places her baby at risk for many problems. Mothers who use drugs are less likely to seek prenatal care, which can increase risks to her and the baby. Women who use drugs are more likely to use more than one drug, which can complicate the treatment.*
  
  - *Additionally, specific difficulties of withdrawal after birth may include, but are not limited to: poor intrauterine growth; premature birth; seizures; and birth defects.*
  
  - *Specific drugs often pose specific problems in the baby:*
    - *Heroin and other opiates (including methadone): significant withdrawal, sometimes lasting four (4) to six (6) months. Seizures may occur from methadone withdrawal.*
  
    - *Amphetamines: low birthweight; premature birth.*
  
    - *Cocaine: poor fetal growth; developmental delays; learning disabilities; and lower IQ.*
  
    - *Marijuana: lower birthweights.*

- *Alcohol: slow growth during pregnancy and after birth; deformities of the head and face; heart defects; and intellectual disabilities.*
- *Cigarettes: smaller babies than non-smokers; increased risk for premature birth and stillbirth.*
- *What are the symptoms of NAS?*
  - *Symptoms may vary depending on the type of substance used and the last time it was used. Symptoms of withdrawal may begin as early as 24-48 hours after birth or as late as five (5) to ten (10) days.*
  - *The following are the most common symptoms:*
    - *Tremors (trembling).*
    - *Irritability (excessive crying).*
    - *Sleep problems.*
    - *High-pitched crying.*
    - *Tight muscle tone.*
    - *Hyperactive reflexes.*
    - *Seizures.*
    - *Yawning, stuffy nose and sneezing.*
    - *Poor feeding and sucking.*
    - *Vomiting.*
    - *Diarrhea.*
    - *Dehydration.*
    - *Sweating.*
    - *Fever or unstable temperature.*
- *How is NAS diagnosed?*
  - *An accurate report of the mother's drug usage is important, including the time of the last drug taken. A neonatal abstinence scoring system may be used to help diagnose and grade the severity of the withdrawal.*

- *How is NAS treated?*
  - *Babies suffering from withdrawal are irritable and often have a difficult time being comforted. Swaddling or snugly wrapping the baby in a blanket may help comfort the baby. Babies may also need extra calories because of their increased activity and may need a higher calorie formula. Intravenous fluids are sometimes needed if the baby becomes dehydrated or has severe vomiting or diarrhea.*
  - *Some babies may need medications to treat severe withdrawal symptoms, such as seizures and to help relieve the discomfort and problems of withdrawal. The treatment drug is usually in the same family of drugs as the substances the baby is withdrawing from. Once the signs of withdrawal are controlled, the dosage is gradually decreased to help wean the baby off the drug.*

## 10.10 Appendix C: Screening Tools Used with Pregnant or Postpartum Mothers

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### 10.10.1 DBDHS screening resource

There are numerous screening instruments that can be used with pregnant and child bearing age women. For more information see the [DBDHS website](#).

### 10.10.2 The 4 P's

The 4Ps (Parents, Partners, Past and Pregnancy) was developed for use with pregnant women and women of child bearing age. This screening device is often used as a way to begin discussion about drug and alcohol use. Any woman who answers yes to one or more questions should be referred for further assessment.

1. Have you ever used drugs or alcohol during this **PREGNANCY**?
  - a. Yes
  - b. No
2. Have you had a problem with drugs or alcohol in the **PAST**?
  - a. Yes
  - b. No
3. Does your **PARTNER** have a problem with drugs or alcohol?
  - a. Yes
  - b. No
4. Do you consider one of your **PARENTS** to be an addict or alcoholic?
  - a. Yes
  - b. No

### 10.10.3 The 5 Ps

The 5Ps was adapted by the Massachusetts Institute for Health and Recovery in 1999 from Dr. Hope Ewing's 4Ps (1990). This screening instrument is actually six (6) questions. It is the 4Ps and an additional question on peers and on smoking.

*Before asking the following questions, develop a comfortable rapport with the mother. Any woman who answers yes to one or more questions should be referred for further assessment.*

1. *Did any of your PARENTS have a problem with using alcohol or drugs?*
  - a. *Yes*
  - b. *No*
  - c. *No answer*
  
2. *Do any of your friends (PEERS) have problems with drug or alcohol use?*
  - a. *Yes*
  - b. *No*
  - c. *No answer*
  
3. *Does your PARTNER have a problem with drug or alcohol use?*
  - a. *Yes*
  - b. *No*
  - c. *No answer*
  
4. *Before you were PREGNANT, how often did you drink beer, wine, wine coolers or liquor or use any kind of drug?*
  - a. *Not at all*
  - b. *Rarely*
  - c. *Sometimes*
  - d. *Frequently*
  - e. *No answer*
  
5. *In the PAST month, how often did you drink beer, wine, wine coolers or liquor or use any kind of drug?*
  - a. *Not at all*
  - b. *Rarely*

- c. *Sometimes*
  - d. *Frequently*
  - e. *No answer*
6. *How much did you SMOKE before you knew you were pregnant?*
- a. *Don't smoke*
  - b. *½ pack a day*
  - c. *1 pack a day*
  - d. *1-2 packs a day*
  - e. *No answer*