

MDH TASK FORCE RECOMMENDATION 1:

REFORM PUNITIVE LAWS RELATED TO PRENATAL SUBSTANCE USE

Purpose

Shift Minnesota's approach from punitive to supportive care for pregnant and birthing individuals who use substances —promoting equity, health, and trust in systems of care.

Why It Matters

- ✓ Improves Health Equity
- ✓ Encourages Prenatal & Substance Use Care
- ✓ Reduces Fear & System Mistrust
- ✓ Minimizes Unnecessary Family Separation

Goal

Transform Minnesota's laws to promote family-centered, respectful, and equitable care for all pregnant and birthing people.

Presenter Contact

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CURRENT CHALLENGES

Minnesota laws currently:

- Criminalize substance use during pregnancy
- Require mandatory drug testing and CPS reports
- Automatically define prenatal substance use as child maltreatment

These practices disproportionately harm Black, Indigenous, and other families of color, discourage engagement in prenatal care, and fail to treat substance use as a health issue.

KEY RECOMMENDATIONS

Change Punitive Laws

1

- Repeal laws that criminalize prenatal substance use or define it as child maltreatment.
- Shift toward supportive, evidence-based, and trauma-informed care models.

Eliminate Mandatory CPS Reports for Substance Use Alone

2

- Remove the requirement to report all prenatal substance use to Child Protection Services.
- Assess safety and risk based on context—not substance use alone.

Create New Law: Clarify “Notification” vs. “Report”

3

- Define **notification** (to public health or care coordination) as **not equivalent** to a **report** of child abuse or neglect.
- Promote non-punitive pathways to support pregnant and birthing individuals.

RESOURCES SHARED:

Minnesota State Laws

Minn. Stat. §§ 260E.31 – Reporting of Prenatal Exposure to Controlled Substances •Subdivision 1.Reports required. (a) Except as provided in paragraph (b), a person mandated to report under this chapter shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy... •(b) A health care professional or a social service professional who is mandated to report under this chapter is exempt from reporting under paragraph (a) if the professional is providing or collaborating with other professionals to provide the woman with prenatal care, postpartum care, or other health care services, including care of the woman's infant. If the woman does not continue to receive regular prenatal or postpartum care, after the woman's healthcare professional has made attempts to contact the woman, then the professional is required to report under paragraph (a).

Minn. Stat. §§ 260E.32 – Toxicology Tests Required •Subdivision 1.Test; report. (a) A physician shall administer a toxicology test to a pregnant woman ... to determine whether there is evidence that she has ingested a controlled substance if the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose. •Subd. 2.Newborns. (a) A physician shall administer to each newborn infant ... a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance if the physician has reason to believe, based on a medical assessment of the mother or the infant, that the mother used a controlled substance for a nonmedical purpose during pregnancy. •(b) If the test results are positive, the physician shall report the results as neglect under section 260E.03.

Online Sources

1. [Harm Reduction International: What is Harm Reduction](#)
2. [Task Force on Pregnancy Health and Substance Use Disorders](#)