

# Child Welfare Policy Manual

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## Questions & Answers

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### 2.1F CAPTA, Assurances and Requirements, Infants Affected by Substance Abuse

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**1. Question: We understand section 106(b)(2)(B)(ii) of the Child Abuse Prevention and Treatment Act (CAPTA) to mean that health care providers must notify Child Protective Services (CPS) of all infants born and identified as affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder. We do not believe that this provision requires the health care provider to refer such children and families to CPS as a report of suspected child abuse or neglect. Is this interpretation accurate?**

**Answer:** Yes, this interpretation is accurate. CAPTA requires that the health care provider must notify CPS of *all* infants born and identified as affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder. Such notification need not be in the form of a report of suspected child abuse or neglect. It is ultimately the responsibility of CPS staff to assess the level of risk to the child and other children in the family and determine whether the circumstance constitutes child abuse or neglect under State law. There may be Federal confidentiality restrictions for the State to consider when implementing this CAPTA requirement.

- **Source/Date:** 05/02/06; updated 12/9/11, 10/11/16
- **Legal and Related References:** Child Abuse Prevention and Treatment Act (CAPTA), as amended (42 U.S.C. 5101 et seq.) § section 106(b)(2)(B)(ii)

**2. Question: If drug-exposure is not defined as child abuse or neglect in the State's reporting statute, are health care providers still required to "notify" child protective services under section 106(b)(2)(B)(ii) of the Child Abuse Prevention and Treatment Act (CAPTA)?**

**Answer:** Yes. The State is required to have policies and procedures to implement section 106(b)(2)(B)(ii) of CAPTA regardless of how child abuse and neglect is defined in the State. Health care providers must notify CPS of all infants born and identified as affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder. There may be Federal confidentiality restrictions for the State to consider when implementing this CAPTA provision.

- **Source/Date:** 05/02/06; updated 12/9/11, 10/11/16

- **Legal and Related References:** Child Abuse Prevention and Treatment Act (CAPTA), as amended (42 U.S.C. 5101 et seq.) - section 106(b)(2)(B)(ii).

**3. Question: The Child Abuse Prevention and Treatment Act (CAPTA) provision at section 106(b)(2)(A)(ii) requires States to adopt policies and procedures to address the needs of infants identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure. Does this requirement include an infant who is affected by prenatal exposure to alcohol?**

**(Deleted 05/03/2016)**