LAWS OF DELAWARE
VOLUME 81
CHAPTER 257
149th GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 140

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO INFANTS WITH PRENATAL SUBSTANCE EXPOSURE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 16 of the Delaware Code by inserting a new chapter to read as follows:

Chapter 9B. Infants with Prenatal Substance Exposure.

§ 901B. Purpose.

The child welfare policy of this State shall serve to advance the best interests and secure the safety and well-being of an infant with prenatal substance exposure, while preserving the family unit whenever the safety of the infant is not jeopardized. To further this policy, this chapter:

(1) Requires that notifications of infants with prenatal substance exposure be made to the Division by the healthcare provider involved in the delivery or care of the infant.

(2) Requires a coordinated, service-integrated response by various agencies in this State's health and child welfare systems to work together to ensure the safety and well-being of infants with prenatal substance exposure by developing, implementing, and monitoring a Plan of Safe Care that addresses the health and substance use treatment needs of the infant and affected family or caregiver.

§ 902B. Definitions.

As used in this chapter:

(1) "Division" is as defined in § 902 of this title.

(2) "Family assessment and services" is as defined in § 902 of this title.

(3) "Healthcare provider" is as defined in § 714 of this title.

(4) "Infant with prenatal substance exposure" means a child not more than 1 year of age who is born with and identified as being affected by substance abuse or withdrawal symptoms or a Fetal Alcohol Spectrum Disorder. The healthcare provider involved in the delivery or care of the infant shall determine whether the infant is affected by the substance exposure.

(5) "Investigation Coordinator" is as defined in § 902 of this title.

(6) "Internal information system" is as defined in § 902 of this title.

(7) "Plan of Safe Care" or "Plan" means a written or electronic plan to ensure the safety and well-being of an infant with prenatal substance exposure following the release from the care of a healthcare provider by addressing the health and substance use treatment needs of the infant and affected family or caregiver, and monitoring these plans to ensure appropriate referrals are made and services are delivered to the infant and affected family or caregiver. The monitoring of these plans may be time limited based upon the circumstances of each case.

(6) "Substance abuse" means the chronic, habitual, regular, or recurrent use of alcohol, inhalants, or controlled substances as identified in Chapter 47 of this title.

(7) "Withdrawal symptoms" means a group of behavioral and physiological features in the infant that follow the abrupt discontinuation of a drug that has the capability of producing physical dependence. Withdrawal symptoms resulting exclusively from a prescription drug used by the mother or administered to the infant under the care of a prescribing medical professional, in compliance with the directions for the administration of the prescription as directed by the prescribing medical professional, its compliance and administration verified by the healthcare provider involved in the delivery or care of the infant, and no other risk factors to the infant are present, is not included in the definition and does not warrant a notification to the Division under § 903B of this title.

§ 903B. Notification to Division; immunity from liability.

(a) The healthcare provider who is involved in the delivery or care of an infant with prenatal substance exposure shall make a notification to the Division by contacting the Division report line as identified in § 905 of this title.

(b) When two or more persons who are required to make a notification have joint knowledge of an infant with prenatal substance exposure, the telephone notification may be made by one person with joint knowledge who was selected by mutual

agreement of those persons involved. The notification must include all persons with joint knowledge of an infant with prenatal substance exposure at the time the notification is made. Any person who has knowledge that the individual who was originally designated to make the notification has failed to do so, shall immediately make a notification.

(c) A notification made under this section is not to be construed to constitute a report of child abuse or neglect under § 903 of this title, unless risk factors are present that would jeopardize the safety and well-being of the infant.

(d) The immunity provisions under § 908 of this title will also apply to this chapter.

§ 904B. Notification information.

(a) Upon receipt of a notification of an infant with prenatal substance exposure, the Division shall enter it into the Division's internal information system.

(b) Upon receipt of a notification of an infant with prenatal substance exposure, the Division shall notify the office of the Investigation Coordinator of the notification in sufficient detail to permit the Investigation Coordinator to undertake its duties as specified in § 906 of this title.

§ 905B. State response to notifications of infants with prenatal substance exposure.

(a) In implementing the Division's role in protecting the safety and well-being of infants with prenatal substance exposure, upon receipt of a notification under § 903B of this title, the Division shall do all of the following:

(1) Determine if the case requires an investigation or family assessment.

(2) Develop a Plan of Safe Care.

(3) Provide copies of the Plan of Safe Care to all agencies and providers involved in the care or treatment of the infant with prenatal substance exposure and affected family or caregiver.

(4) Implement and monitor the provisions of the Plan of Safe Care.

(b) For any case accepted by the Division for investigation or family assessment, the Division may contract for services to comply with § 906 of this title and § 905B of this chapter.

(c) For cases that are not accepted by the Division for investigation or family assessment, or those cases accepted for family assessment where the report does not involve a multidisciplinary case under § 906(e)(3) of this title, but that still meet the definition of an infant with prenatal substance exposure, the Division shall contract for services to do any of the following:

(1) Protect the safety and well-being of the infant with prenatal substance exposure following release from the care of healthcare providers while preserving the family unit whenever the safety of the infant is not jeopardized.

(2) Develop a Plan of Safe Care.

(3) Provide copies of the Plan of Safe Care to all agencies and providers involved in the care or treatment of the infant with prenatal substance exposure and affected family or caregiver.

(4) Implement and monitor the provisions of the Plan of Safe Care.

(5) Provide a final report to the Division to assist the Division in complying with Section 906B of this Chapter.

(d) For any case referred for contracted services under this chapter, the contractor shall immediately notify the Division if it determines that an investigation is required or is otherwise appropriate under § 906 of this title. The contracted staff who have conducted the assessment may remain involved in the provision of services to the child and family as appropriate.

(e) In implementing the Investigation Coordinator's role in ensuring the safety and well-being of infants with prenatal substance exposure, the Investigation Coordinator, or the Investigation Coordinator's staff, shall have electronic access and the authority to track within the Department's internal information system each notification of an infant with prenatal substance exposure.

§ 906B. Data and reports.

(a) The Division shall document all of the following information in its internal information system for all notifications of infants with prenatal substance exposure under this chapter:

(1) The number of infants identified as being affected by substance abuse, withdrawal symptoms, or Fetal Alcohol Spectrum Disorder.

(2) The number of infants for whom a Plan of Safe Care was developed, implemented and monitored.

(3) The number of infants for whom referrals were made for appropriate services, including services for the affected family or caregiver.

(4) The implementation of such Plans to determine whether and in what manner local entities are providing, in accordance with state requirements, referrals to and delivery of appropriate services for the infant and affected family or caregiver.

(b) The Department of Health and Social Services, the Investigation Coordinator and healthcare providers shall assist the Division in complying with this section.

(c) In addition to any required federal reporting requirements, the Division, with assistance from the Department of Health and Social Services and the Investigation Coordinator, shall provide an annual report to the Child Protection Accountability Commission and Child Death Review Commission summarizing the aggregate data gathered on infants with prenatal substance exposure.

(d) To protect the privacy of the affected family or caregivers, including the infant named in a report, this chapter is subject to the privacy and confidentiality provisions in § 906 and § 909 of this title.

Section 2. This Act shall be known and may be cited as "Aiden's Law."

Approved June 7, 2018