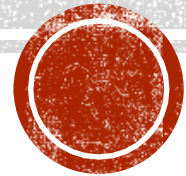


**SUBSTANTIAL HARM:
THINKING CRITICALLY ABOUT CHILD WELFARE
REFERRALS FOR PARENTS WITH SUD**



ASAM Focus Session

April 2023

NO DISCLOSURES



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**Public
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**ObGyn,
Addiction
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GOALS

- Challenge common beliefs about how the medical system interfaces with the child welfare system
- Identify real-world examples of bias and institutional weaknesses creating unintended negative outcomes for families
- Propose changes to your personal practice that can improve outcomes and enhance equity



A black and white photograph showing two hands. The larger hand is in the foreground, palm up, with fingers slightly spread. A smaller hand is resting on top of it, also palm up. The lighting is dramatic, highlighting the textures of the skin and the lines on the palms. The background is dark and out of focus. The word "BACKGROUND" is written in a bold, white, sans-serif font across the bottom center of the image.

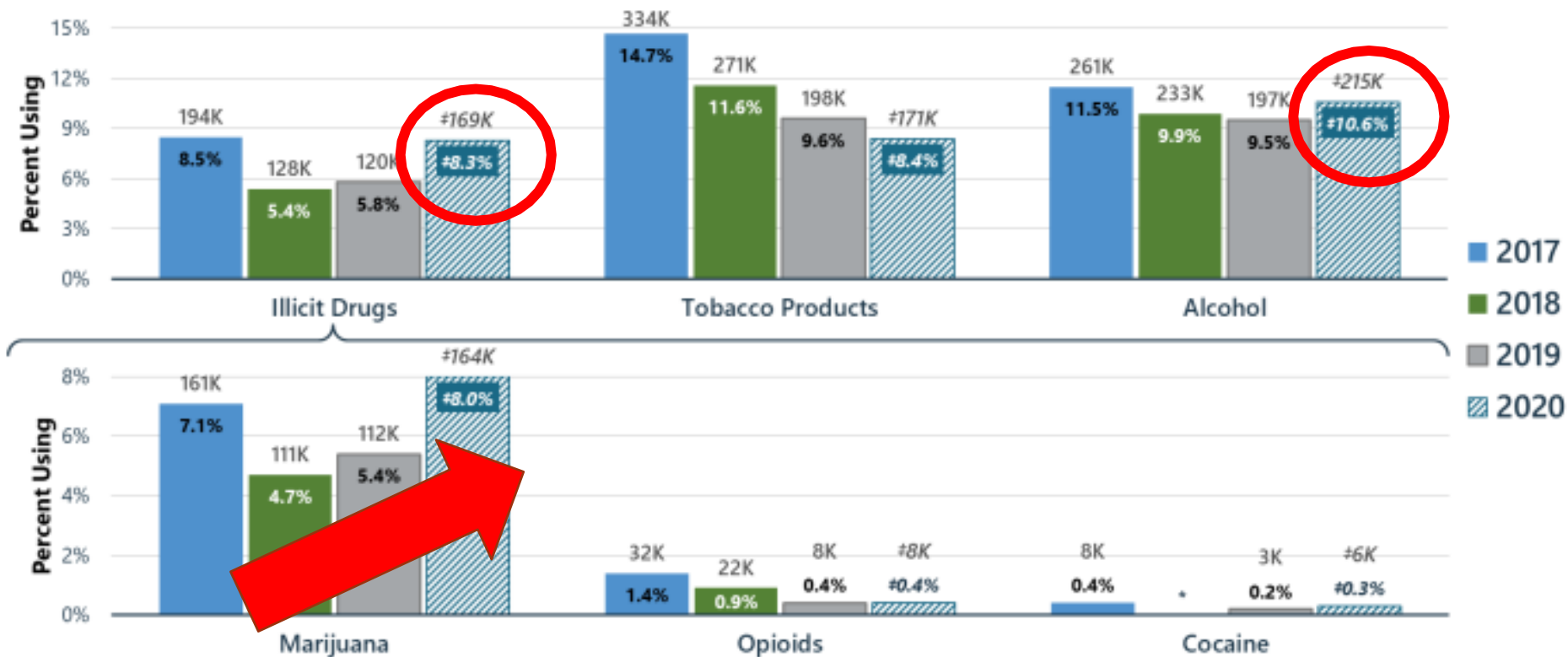
BACKGROUND

- Over **21 million** children live with a parent who **misused** substances in the past year
- **1 in 8** children live in households with at least one parent with a **substance use disorder**



Substance Use in Past Month: Among Pregnant Women Aged 15-44

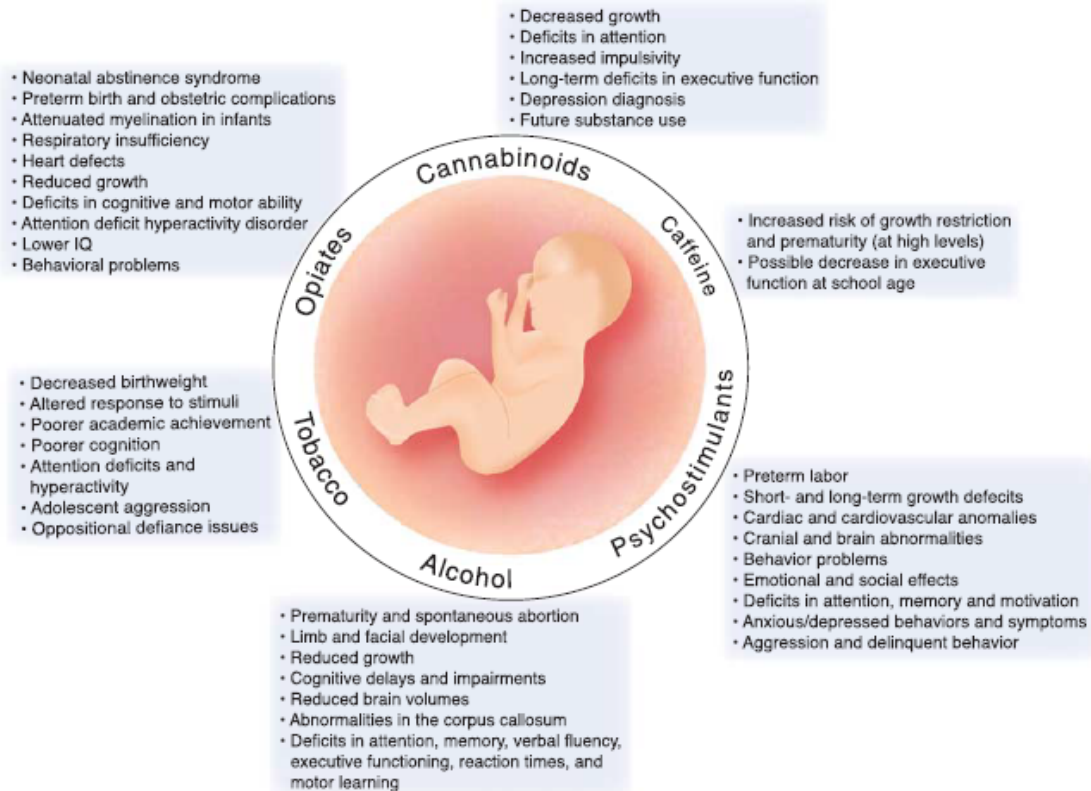
PAST MONTH, 2017-2020 NSDUH, PREGNANT WOMEN 15-44



* Estimate not shown due to low precision.

Tobacco products are defined as cigarettes, smokeless tobacco, cigars, and pipe tobacco.

† Estimates on the 2020 bars are italicized to indicate caution should be used when comparing estimates between 2020 and prior years because of methodological changes for 2020. Due to these changes, significance testing between 2020 and prior years was not performed. See the 2020 *National Survey on Drug Use and Health: Methodological Summary and Definitions* for details.



- Associated with increased risk for preterm birth, low birth weight, early motor and cognitive deficits, and longer term problems with executive function
- FASD thought to affect 1 in 20 American schoolchildren
- Neonatal withdrawal syndromes affected by both patient and system level decisions
- **Degree of harm mediated by pattern of substance use, co-morbid conditions, postnatal environment**



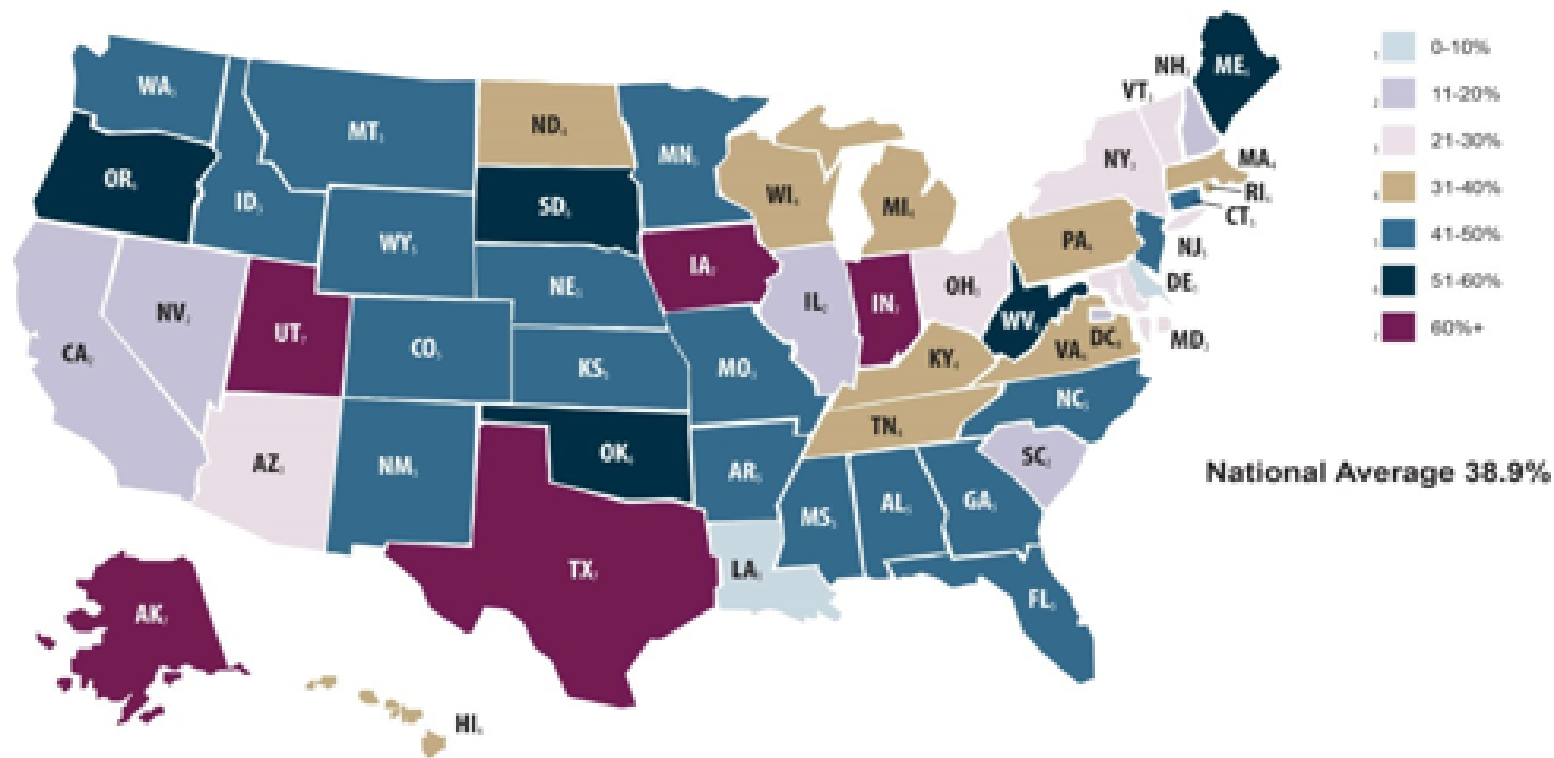
SUBSTANCE USE AND CHILD OUTCOMES



- Increased internalizing and externalizing behaviors
- Maltreatment
- Risk of foster care placement
- Use of substances themselves



Parental Alcohol or Other Drug Abuse as an Identified Condition or Removal by State, 2019





Children under the age of 1 represent the largest age group of any children in the child welfare system. This statistic is driven by an increase in infants exposed to drugs in utero.

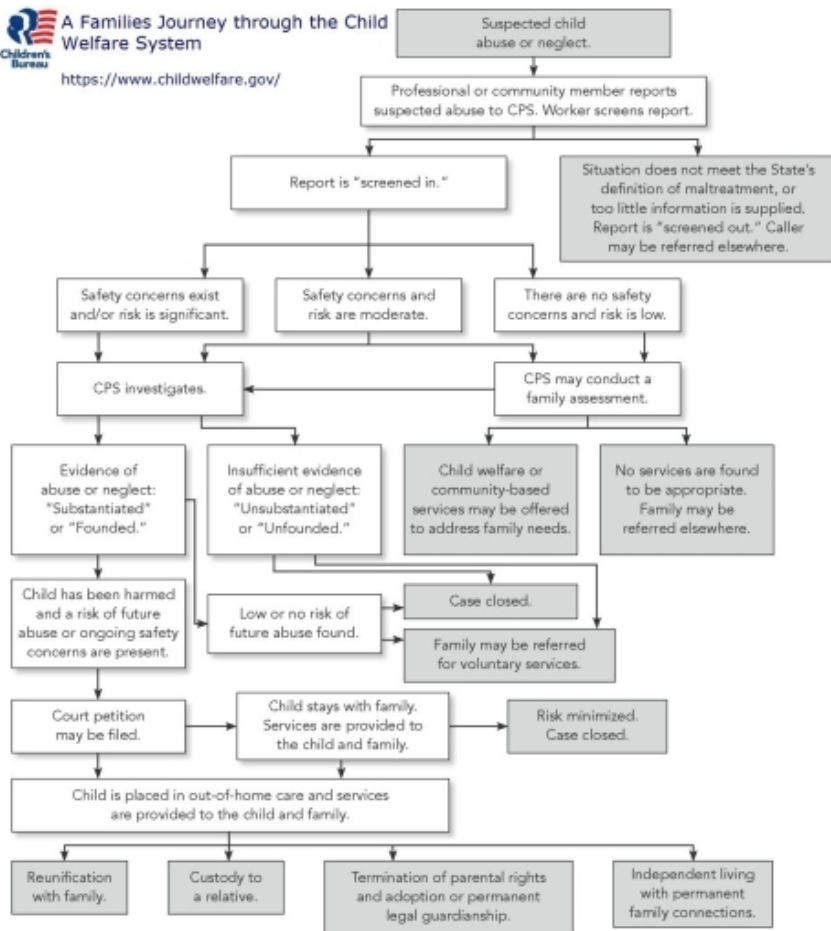


a hurt child is

EVERYONE'S
BUSINESS

PREVENT
CHILD ABUSE





THE COMPLEX CHILD WELFARE PROCESS



CHILD ABUSE PREVENTION AND TREATMENT ACT (CAPTA)



- Federal legislation addressing child abuse and neglect
- Provides federal funding and guidance to states to help prevent, assess, investigate, prosecute, and treat
- Provides grants to public agencies and nonprofits
- Supports research, evaluation, technical assistance, and data collection
- Establishes Office on Child Abuse and Neglect
- Establishes national clearinghouse of information relating to child abuse and neglect

COMPREHENSIVE ADDICTION & RECOVERY ACT (CARA)

- Establishes innovative strategies to address nation's opioid epidemic
- Enacted July 2016, amended CAPTA
- Three Primary Systems
 - Child Welfare
 - Medical Partners
 - Hospitals (OBGYN, Labor & Delivery)
 - Community Partners
 - Substance abuse treatment agencies, mental health
- Created a Plan of Safe Care
 - Required at time of discharge for infants 12 months and younger if:
 - (1) prenatally exposed to substance; (2) demonstrating symptoms of withdrawal; (3) diagnosed with Fetal Alcohol Spectrum Disorder



CHALLENGES WITH THE CHILD WELFARE SYSTEM

- The child welfare system is supposed to "protect children and help families."
- The process **varies significantly** from state to state
- The consequence of these statutes is that **children can be removed from homes with the lowest legal standard of evidence**
- It **does not require clear and convincing evidence**. For instance, poverty is mistaken for neglect.
- For reunification, parents must complete an **arduous prescribed case plan** and submit to supervised visits.
- Parents have **one to two years** to complete the case plan requirements **before their parental rights are permanently terminated**. (Adoption and Safe Families Act-AFSA)
- **Most funding** provided by child welfare federal statutes (CARA AND CAPTA) **doesn't address the underlying causes** of children being removed from families, such as poverty, SUDs, and unstable housing.

CHILD REFERRALS FOR DRUG USE

Cuyahoga County
Division of Children
& Family Services



- Process
 - Child and/or mother tests positive for substance use in hospital
 - CFS worker assesses the situation
 - Considers patient history
 - Determination made on who child will go home with
 - Parent, family member, or another caregiver
 - If child does not return home with the parent, a complaint is filed with an emergency custody request attached
 - Once complaint is filed, a hearing must be held within 24-48 hours
- Parental Rights
 - Right to an attorney
 - Right to bring witnesses
 - Right to trial

REMOVAL AND CHILD OUTCOMES

- **Insecure** and disorganized **attachments**
- **Externalizing and internalizing** behaviors
- **Traumatic losses** and unfamiliar environments
- Negative social perception
- Mixed loyalties to bio vs foster family
- Ambivalence at reunification



A young child is sitting on a sandy beach, holding a large, light-colored teddy bear. The child is wearing a light-colored shirt and shorts. The background shows the ocean waves and a bright sky. The text is overlaid on the image.

UP TO **1 IN 3 CHILDREN** WHO REUNIFY
WITH BIOLOGICAL PARENTS FROM CHILD
WELFARE SYSTEMS WILL **RE-ENTER**
FOSTER CARE



- **3X rate of removal** when substances are involved
- **Higher rates of foster care re-entry** when parental substance use is present
- **Higher rate of permanent removal** when drugs are involved (vs alcohol or neither)
- **Longer number of days child is in foster placement** if substance use is a removal reason



CHILDREN WHO GROW UP IN FOSTER CARE ARE MORE LIKELY TO ABUSE SUBSTANCES, HAVE CRIMINAL JUSTICE INVOLVEMENT, EXPERIENCE EARLY CHILDBEARING, AND LOSE THEIR OWN CHILDREN TO THE FOSTER SYSTEM



IMPACT OF REMOVAL ON MOM

- ***“Profoundly traumatic event producing long-lasting impact”***
- Process of removal creating mistrust and lack of motivation to “do the work”
- **Increased use of drugs and alcohol and less engagement with treatment services**
- Lack of self care, including unsafe behaviors
- Onset of depression, anxiety, PTSD, significant emotional dysregulation
- Hoping to reunite with children once they become of legal age key to many women’s reason to survive



MOTHERS WHO HAVE A CHILD REMOVED FROM CARE ARE **2X AS LIKELY** TO HAVE SUBSEQUENT BIRTH AND **3X AS LIKELY** TO HAVE ANOTHER ALCOHOL OR DRUG-EXPOSED BIRTH



“ MY THIRD CHILD, I HAD NO PRENATAL CARE... BECAUSE I WAS TAKING DRUGS, WELL, NOT DRUGS-DRUGS, I WAS DOWN THERE SMOKING ON MARIJUANA AND DRINKING LIQUOR. AND THEY TOLD ME IF THEY SEE THC OR SOMETHING LIKE THAT IN MY SYSTEM, THEN PROTECTIVE SERVICES WOULD GET INVOLVED. SO I DIDN'T GO TO NO CARE FOR HER, NONE.”

SYSTEM WEAKNESSES





Pocket Guide for Providers Serving Expectant Mothers with Substance Use Disorders

The Comprehensive Addiction and Recovery Act (CARA)

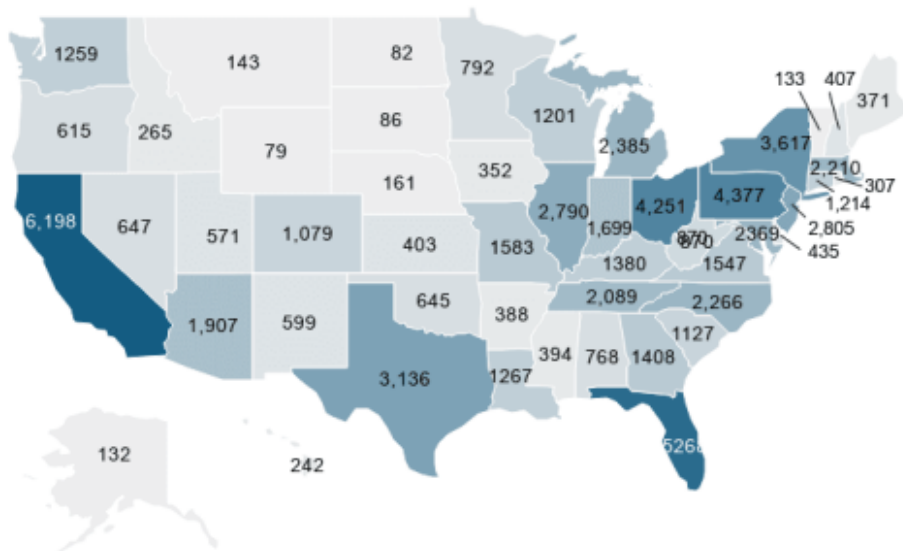
Mandated Reporter Expectations

The expectations for mandated reporters can be found in Ohio Revised Code Section 2151.421. The law requires mandated reporters to make a referral to children services in any of the following circumstances:

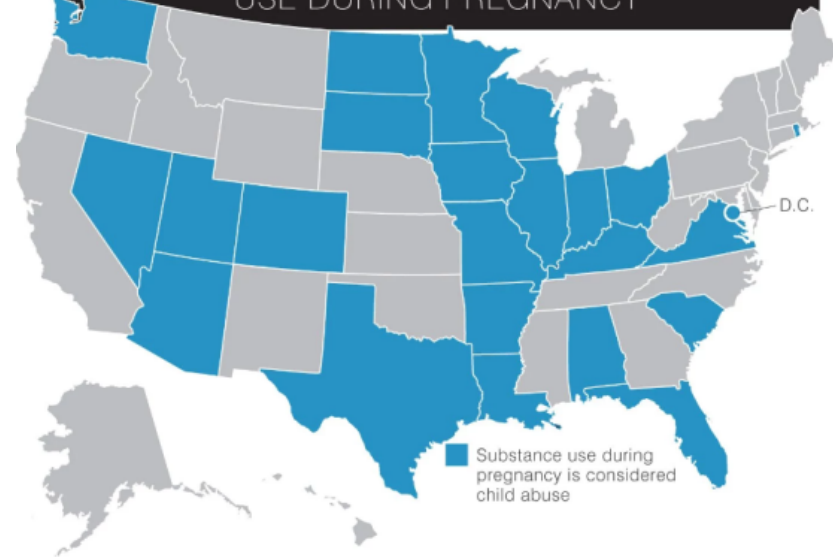
- The mother or infant test positive for an illegal substance, non-prescribed substance, and/or misused prescribed controlled substance.
- The infant exhibits signs of withdrawal as a result of prenatal exposure to an illegal substance, non-prescribed substance, and/or misused prescribed controlled substance.
- The infant is diagnosed with Fetal Alcohol Spectrum Disorder.



Total Annual Overdose Deaths by State



STATE POLICIES ON SUBSTANCE USE DURING PREGNANCY



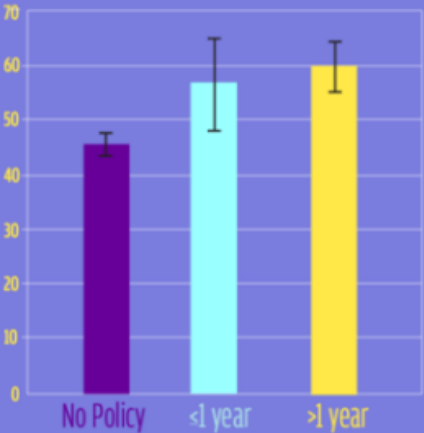
SOURCE: <https://www.gutmacher.org/state-policy/explore/substance-use-during-pregnancy#>



Examining 4.6 million births in 8 states between 2003 and 2014, our research found that:

➤ **More infants are born experiencing drug withdrawal** in states with policies that punish pregnant women for substance use:

Annual Rates of NAS* per 10,000 Births



46 in states with **NO punitive policies**

57 in states with **policies in effect for ≤ 1 year**

60 in states with **policies in effect for >1 year**



➤ **Punitive policies aren't beneficial for women or infants:**

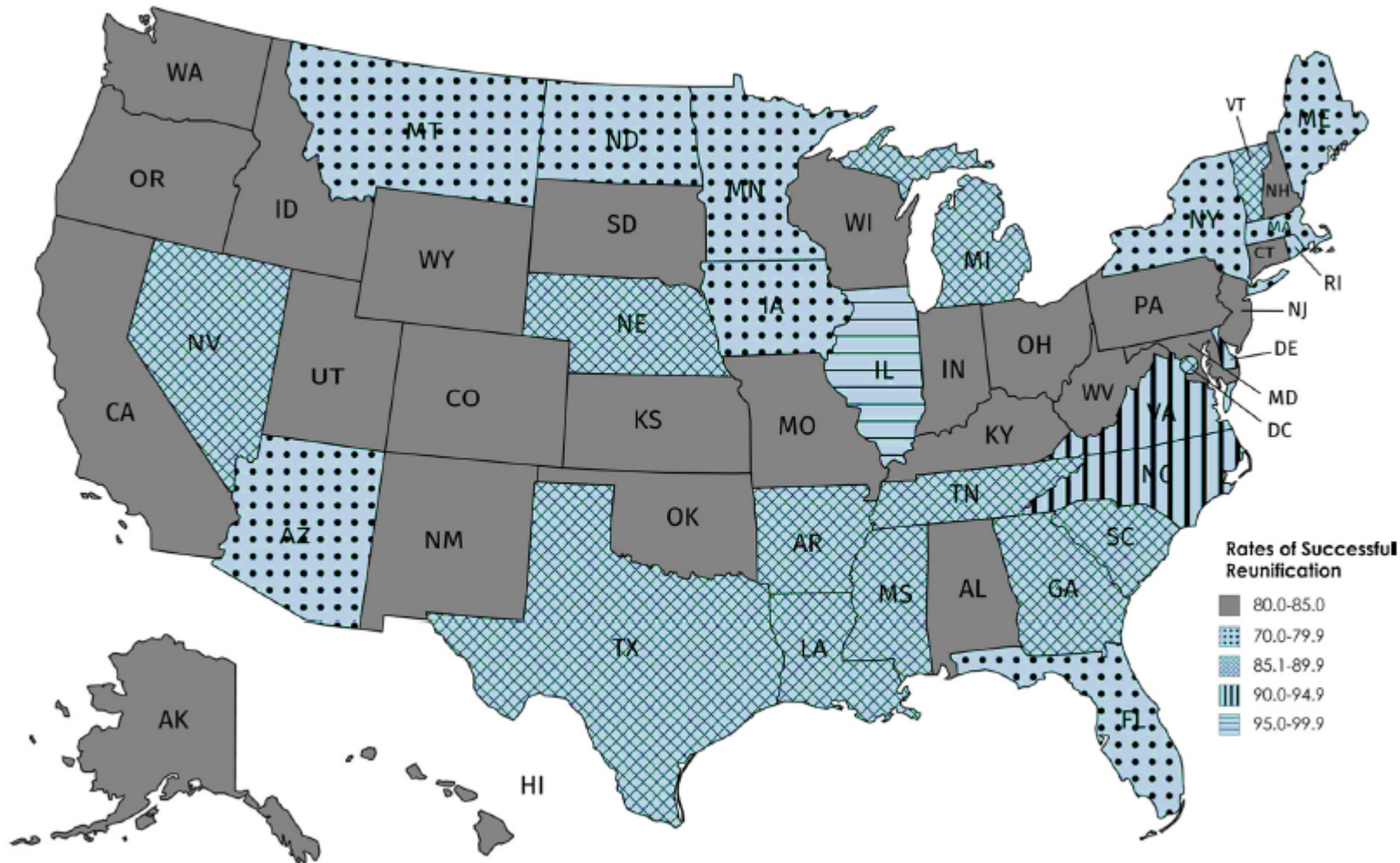


Punishing pregnant women for substance use **discourages them** from seeking prenatal care and substance use treatment



Policymakers should focus on public health approaches that **bolster prevention & expand access to substance use treatment** among pregnant women.





Infants removed in states with criminalization of perinatal substance use are less likely to reunify, an effect magnified for black non-Hispanic infants



- Attempts to utilize services to improve wellbeing results in **surveillance bias** for women living in poverty
- **Provider bias** causes African American moms to be reported more frequently to DCFS than white moms, despite similar health narratives
- This results in **racial disproportionality** in the foster care population



MOST IMPACTED GROUPS

- 15% of **American Indian/Alaska Native** children enter for foster care system because of reported alcohol use by parents
 - 41% for other substance use by parents
- **Black and Latinx parents** compromise a significant amount of those accused of abusing and neglecting their children by using drugs
- Black infants removed from their home due to parental substance abuse are less likely to reunify with their parents than children removed for other reasons



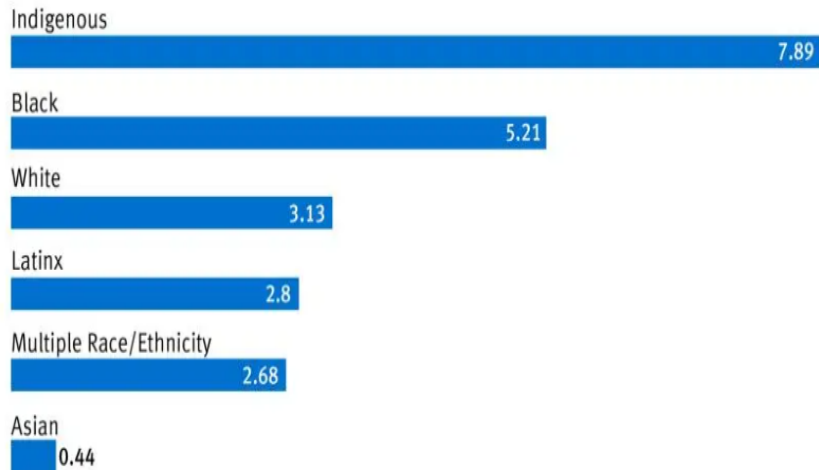
HUMAN RIGHTS WATCH

2019 ACLU REPORT

Table 15. Racial and Ethnic Disparities in Removal Rates

Racial and Ethnic Disparities in Removal Rates

Foster system entries per 1,000 children, FY 2019

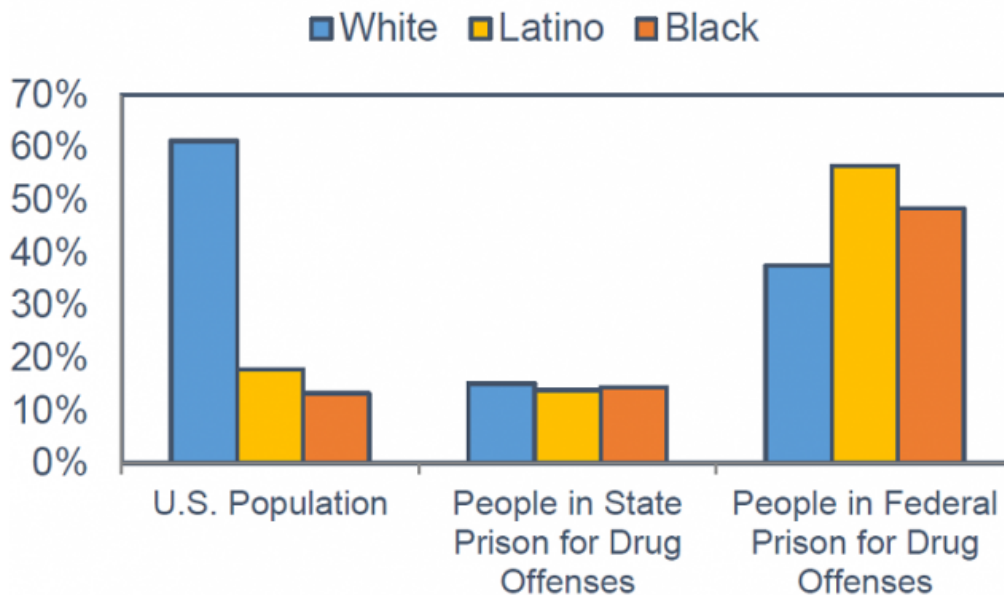


Source: Human Rights Watch analysis of Adoption and Foster Care Analysis and Reporting (AFCARS) Foster Care file, FY 2019, and US Census Bureau data.



Disproportionate Impact of Drug Laws on Black and Latino Communities

- 1 in 3 black men and 1 in 18 black women will experience incarceration during their lifetimes
- Nearly 80% of people in federal prison for drug offenses are Black or Latino
- **Given that substance use is often intergenerational, many families of color are unable to care for children as kinship guardians despite being perfectly competent to do so**



Reunification for young children aged 0-4 is **significantly and substantially less likely for black children** in foster care.



TORN APART

DOROTHY ROBERTS IN CONVERSATION
W/ KEEANGA-YAMAHTTA TAYLOR

2002 **SHATTERED BONDS** *(TAKING A STRONGER ABOLITIONIST STAND)* **TORN APART** 2022

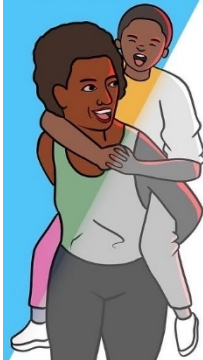
REFORMS AREN'T ENOUGH

"I ENGAGED IN REFORM EFFORTS FOR 20 YEARS & FOUND THEM COMPLETELY INADEQUATE."



LEARNING FROM & EXPANDING ON WORK BY PRISON INDUSTRIAL COMPLEX ABOLITIONISTS

NEED TO CHALLENGE CALLS TO INVEST FUNDS DIVESTED FROM COPS INTO C.P.S. DEPARTMENTS



SURVEILLANCE & REMOVAL WITHOUT CONVICTION OR CHARGES

NO ACCOUNTABILITY OF THE SYSTEM

COERCION

EDUCATION HOUSING HEALTH CARE

ONLY TOOL LEFT IS CONSTANT THREAT OF REMOVAL

COMPLIANCE

BLACK FAMILIES GET THE WORST, MOST PUNITIVE "SERVICES" & BLACK CHILDREN HAVE THE WORST OUTCOMES

- AGE OUT OF FOSTER SYSTEM WITHOUT RESOURCES OR ADULT SUPPORTS
- HOMELESSNESS, POVERTY, & INCARCERATION

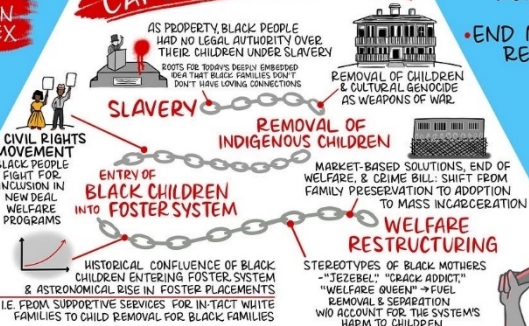
THE FAMILY POLICING SYSTEM (AKA THE CHILD WELFARE SYSTEM) RELIES ON THE SAME CARCERAL LOGICS AS THE CRIMINAL PUNISHMENT SYSTEM

GET INVOLVED!

UPEND MOVEMENT REPEALASFA.ORG

JMAC FOR FAMILIES MOVEMENT FOR FAMILY POWER

CARCERAL NETWORKS



"NON-REFORMIST REFORMS" -BETH WILSON GILMORE

• REPEAL A.S.F.A. •

• END MANDATORY REPORTING •

• CAREGIVER INCOME CHECKS •

• HIGH QUALITY LEGAL DEFENSE •



@LIZARD_TISTRY





“If she loved her children, she would be able to stop drinking or using drugs...”





Gender, race and ethnicity, socioeconomic status, and other demographics all influence prevalence of substance use disorders and the challenges associated with them



≡ **TIME** 'No Alcohol' During Pregnancy Is Just Another Shame Battle in the Mommy Wars



Getty Images

Lack of geographically accessible drug treatment programs, insurance barriers, stigma, inability to accommodate mother-baby dyads, and other barriers continue to obstruct effective implementation of “priority access laws” for pregnant women with SUD



- 2020 N-SSATS show that **only 25% of treatment facilities accept pregnant clients**, of which 30% are private for profit
- A quarter of treatment facilities do not accept Medicaid
- **Fewer than half** offer services such as housing assistance, domestic violence counseling, transportation assistance
- Treatment deserts: **non-metropolitan areas, Midwest, South**

Figure 3.2. Percent of Ohio treatment facilities that serve a relevant population/offer relevant services, 2017

Treatment providers	Number	Percentage
Total treatment facilities in Ohio	359	—
Total relevant treatment facilities	122	34%
Specifically tailored program or group for pregnant/postpartum women	73	20%
Specifically tailored program or group for domestic violence survivors	57	16%
Offer childcare for clients	46	13%
Offer beds for client children	13	4%

Source: HPIO analysis of 2017 N-SSATS data (SAMHSA)





**SYSTEM
OPPORTUNITIES**

THE BASICS

- Validated screening methods for detection of perinatal SUD
- Informed consent with the use of biologic testing
- Separation of addiction treatment from prenatal treatment
- Respectful, non-judgmental care



VALIDATED SCREENING TOOLS

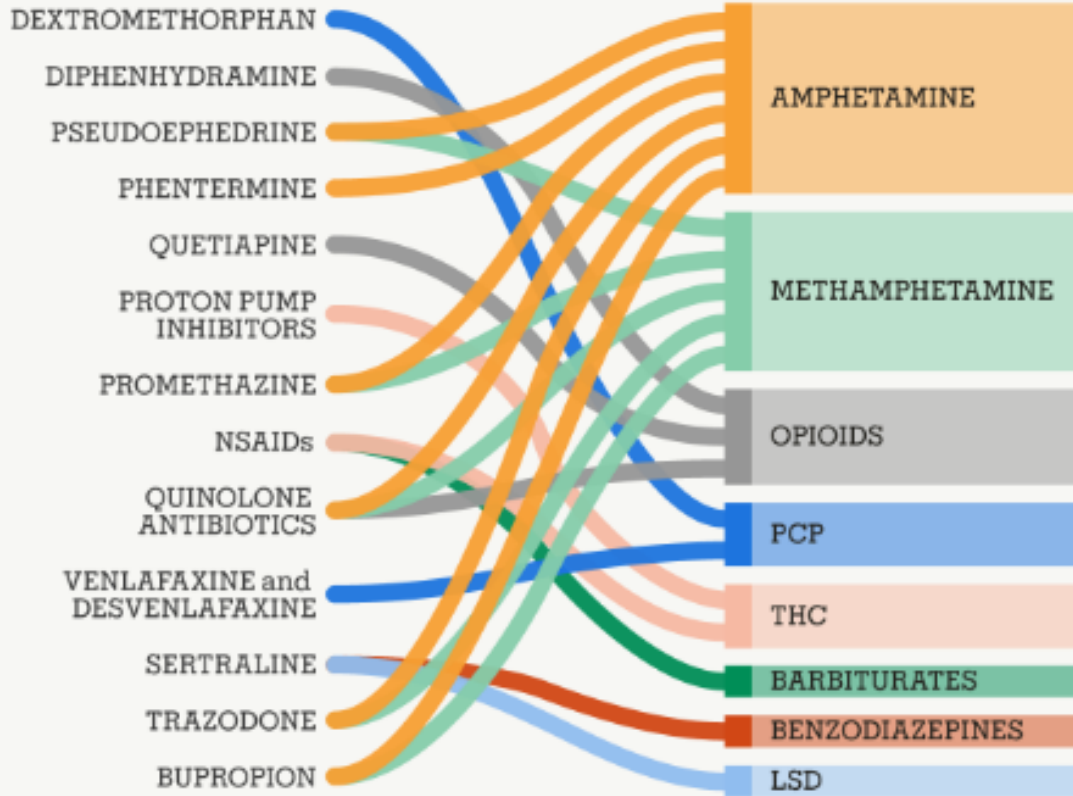
- 4Ps, 4PS plus, 5Ps
- ASSIST
- AUDIT
- CRAFFT
- DSAT-10
- NIDA Quick Screen
- TAPS
- T-ACE
- TWEAK
- TICS

1. Did any of your *Parents* have problems with alcohol or drug use?
___ No ___ Yes
2. Do any of your friends (*Peers*) have problems with alcohol or drug use?
___ No ___ Yes
3. Does your *Partner* have a problem with alcohol or drug use?
___ No ___ Yes
4. Before you were pregnant did you have problems with alcohol or drug use? (*Past*)
___ No ___ Yes
5. In the past month, did you drink beer, wine or liquor, or use other drugs? (*Pregnancy*)
___ No ___ Yes

BIOLOGIC SCREENING

- Does not diagnose a substance use disorder
- Does not tell you frequency, quantity, intoxication levels
- Maternal and neonatal biologic assays may be discordant
- Testing policies may be influenced by bias





- Can have false positives if not followed by **confirmatory testing**
- True positives can have **alternative explanations** besides drug misuse

* Other medications may rarely cause false positive results on a urine drug test. These include isbetalol (Trandate), doxylamine (Unisom), and tramadol (Ultram).

INNOVATIVE PRACTICES

- Integrated care
- Inter-professional collaboration
- Family-centered care

Watch Our Video:



UH RISE PROGRAM:
UH Rainbow Interdisciplinary Substance Exposure

THE RISE PATHWAY

Medical

- Timely med mgmt
- Simultaneous OB and MH care
- Warm hand offs

Psychosocial

- Care coordination
- Wrap around services
- Preparation for postnatal expectations

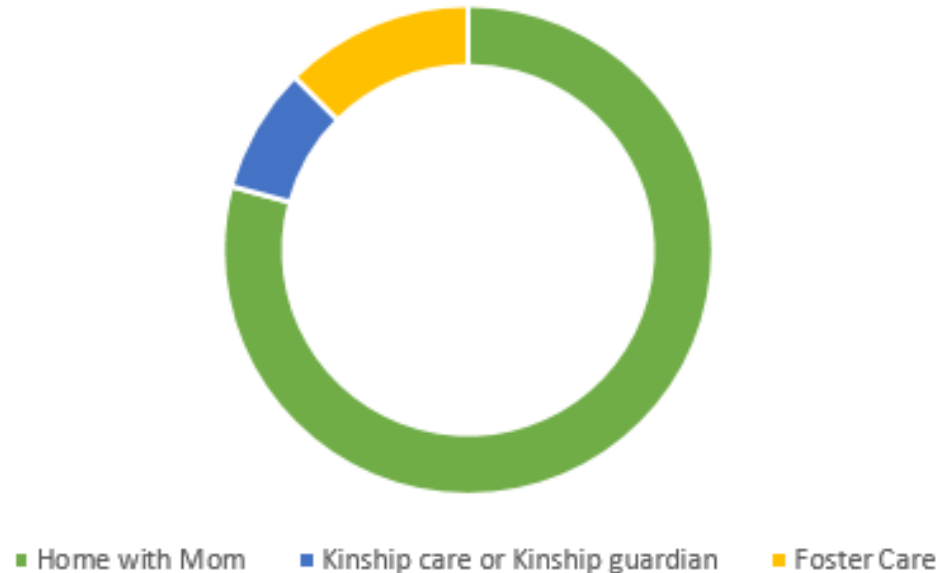
Dyadic

- Linkage between OB and Pediatrics
- Opportunities for care at multiple points in the postnatal journey
- Advocacy for families with court systems

RISE OUTCOMES

- Increased patient satisfaction
- Almost 100% on MOUD by delivery
- 81% engaged in behavioral services by delivery
- 96% with a Plan of Safe Care by hospital discharge
- 87.5% of newborns go home with mother at hospital disposition
- 91% had ≥ 2 well child visits within the first 90 days after birth

Infant Disposition at Hospital Discharge



FAMILY DRUG COURTS

- Interdisciplinary framework
- Intensive case management and judicial monitoring
- Use of positive and negative consequences
- Increase parental SUD treatment by 25-35%
- Reduce time spent in foster care
- Increased the likelihood of reunification by 15-40%



BEST PRACTICES FOR FAMILY DRUG COURTS

- Best practices for drug courts **emphasize family reunification**
- One example is the Cuyahoga County Juvenile Justice Family Recovery Docket
 - **Non-adversarial** team approach that emphasizes collaboration
 - Solely focused on parents with newborns
 - **Team:** judge, magistrate, child welfare assistant prosecutor, child welfare S.T.A.R.T (Sobriety Treatment and Recovery Team) unit, assistant public defender, guardian ad litem, and treatment providers
 - Child welfare S.T.A.R.T. units includes supervisors, caseworkers, and family advocates which provides a more **hands-on and evidence-based approach**



Picture from brochure

CUYAHOGA COUNTY FIRST PROGRAM

- Grant-funded **Pre-Court intervention**: Family Intervention Representation and Services Team
- **Voluntary prepetition** services to families involved with the child welfare agency to preserve the family unit and maintain the children in their homes.
- Provides a solution-based **multidisciplinary approach** that includes a team of attorneys, social workers, and parent advocates who provide resources, support, guidance, and encouragement to families.
- It **avoids court involvement** which is often adversarial and can be traumatizing and punitive.
- **Partners with non-profit organizations:**
 - Legal Aid Society assists with civil protection orders, landlord/tenant disputes, and special education.
 - EDEN housing helps families facing homelessness and unstable housing.
 - Neighborhood collaboratives provide food, housing security deposits, parenting and domestic violence classes.

The Safe Babies Court Team™ Approach

ZERO TO THREE's SBCT approach applies the science of early childhood development in meeting the urgent needs of infants and toddlers and strengthening their families.

- The target population is children birth to three years of age under court jurisdiction, who are in foster care or at risk of removal, and their families.
- The goal is to advance the health and well-being of very young children and their families, so they flourish.
- SBCTs promote healthy early childhood development, support family resiliency, and build community capacity to prevent child abuse and neglect.



ONGOING WORK

- Education
- Advocacy
- Empowerment, voice, and choice





REFLECTION





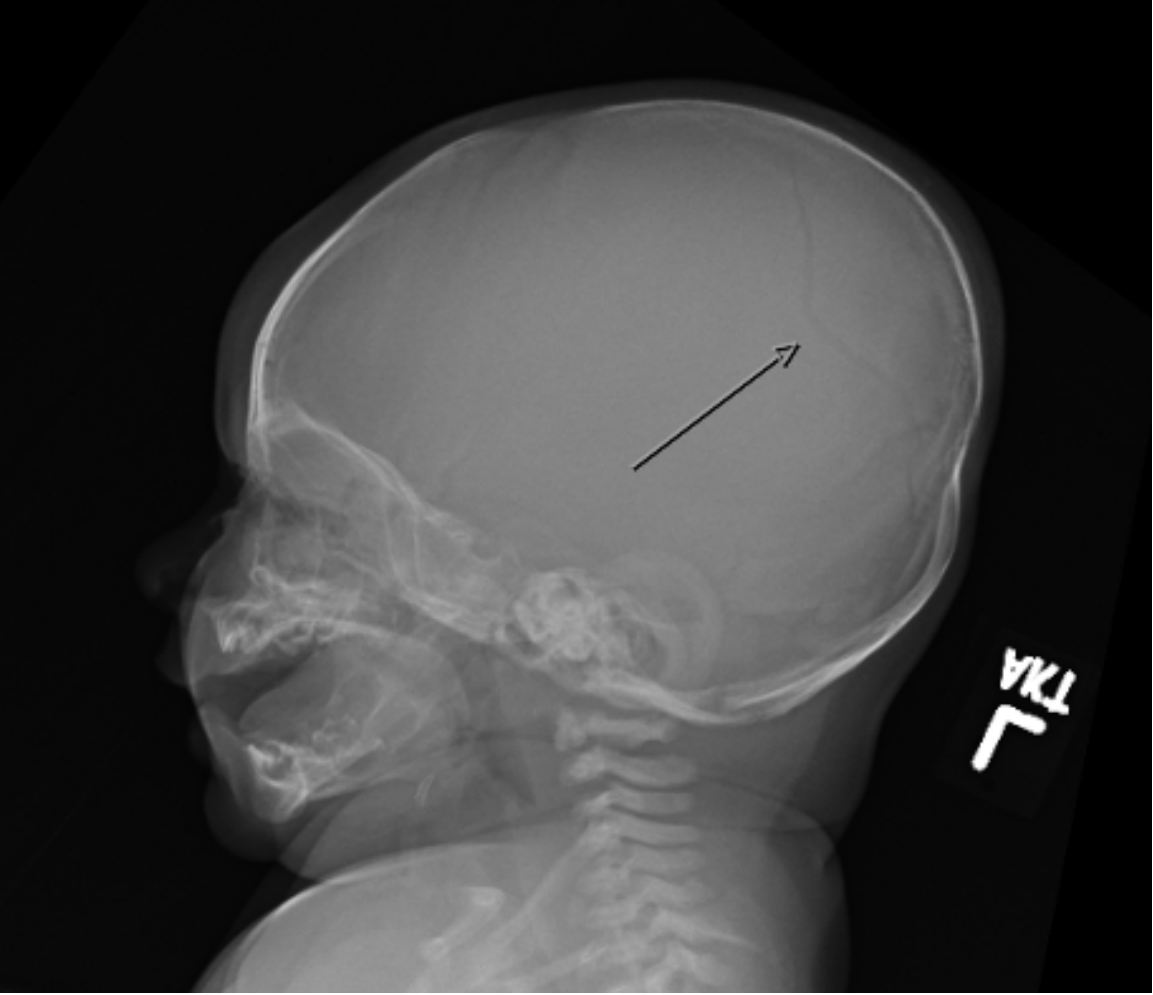
QUESTIONS

- Would you have performed a urine drug screen on Shaymere for late establishment of prenatal care?
- Do you discuss the implications of testing positive for substances in your informed consent process for urine drug screening?
- Does your drug screen test for THC?
- Is it “child abuse” to use THC in your state?



QUESTIONS

- When discussing the harms of perinatal cannabis use, which harms do you tend to emphasize most? (Rank 1 = highest priority, 5 = lowest priority)
- Do you think cannabis use produces unsafe parenting?



QUESTIONS

- Would you have ordered a urine drug screen on the parents?
- Do you think her drug screen reflects active drug use?
- Do you think parental drug use contributed to the baby's skull fracture?



QUESTIONS

- How might case plans disrupt parenting and work-life obligations?
- How might case plans disrupt family dynamics, including the parent-infant dyad?
- What do you think the prognosis is for this family?

TAKE AWAYS

- Parental drug use exists within a **spectrum**
- **Biases** within the medico-legal produce can harm families even if the intent is to protect them. This effect is **magnified for families of color**
- Adopt a **patient- and family-centered** approach
 - Policies should be **non-punitive**
 - Value the **mother-baby dyad**



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