

Testimony
Senate Bill Number 2251 - Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman
January 25, 2017

Chairman Lee, and members of the Senate Human Services Committee, I am Marlys Baker, Child Protection Services Administrator with the Department of Human Services (Department). I appear before you to provide information related to Senate Bill 2251.

Section 1 of the Bill adds a definition of Alternative Response Assessment specific to substance exposed newborns in order to allow Child Protection Services workers in the counties to respond to reports of suspected child abuse and neglect involving substance exposed newborns in a manner that does not require a fact finding process (defined as assessment). The added definition requires child protection services workers to provide referrals for support services for the child, the child's caregivers and specifically to develop a Plan of Safe Care for the newborn. Section 1 also includes a definition of Substance Exposed Newborn which correlates with a medical definition of "neonate", translated as a "newborn" in common language.

The proposed changes in Section 2 provide permissive language to allow for an "Alternative Response Assessment" in addition to the current, more "traditional" Child Protection Services assessment and allows the Department to develop guidelines to determine which reports of suspected child abuse or neglect might be most appropriate for an "Alternative Response Assessment".

Section 3 allows for addition of the Alternative Response Assessment to the caseload of the county social services offices as the authorized agent of the

state and allows payment to the counties for these assessments as is provided for the currently paid assessments.

Section 4 provides for the same immunity protections for those assisting in an Alternative Response Assessment as are currently provided for persons assisting in the “traditional” assessment.

Section 5 precludes the Department from making a services required determination for individuals who comply with the Alternative Response Assessment, service referrals, and Plan of Safe Care for the infant. Section 5 also allows the Department to conduct a “traditional” assessment in cases of non-compliance, assuring that the Department will conduct an appropriate assessment of reports of substance exposed newborns.

Subsection 1 of Section 6 (lines 15 through 20) provides that appropriate referrals services are made as a part of the Alternative Response Assessment for the substance exposed newborn, the persons responsible for the welfare of the newborn, and other children under the same care and requires that a Plan of Safe Care be developed on behalf of the newborn. This section also retains the ability of the Department to take action under Chapter 25-03.1 Commitment Procedures. Section 6, Subsection 2 (lines 21 and 22) allows the Department to discharge these duties along with other duties in this chapter through county social service agencies as an authorized agent.

Background

On July 22, 2016, the United States Congress passed Public Law 114-198, the Comprehensive Addiction and Recovery Act of 2016 (CARA), which amended the Child Abuse Prevention and Treatment Act of 2010 (CAPTA).

CAPTA previously required the development of a Plan of Safe Care for an infant exposed to illegal substance abuse. CARA removed the reference to “Illegal” substances and provides that states must ensure the well-being of all infants born with and affected by substance abuse or withdrawal symptoms or a Fetal Alcohol Spectrum Disorder following their release from health care providers through addressing the health and substance use disorder treatment needs of the infant and affected family or caregiver. CARA also requires development of a monitoring system for referrals to and delivery of services to the infant and caregivers.

During the interim, The Attorney General’s Office convened a Substance Exposed Newborn Task Force, created during the preceding Legislative Session. Through information and discussion in this Task Force, it was recognized through research in other states that criminalization and removing the infant from the home were not successful strategies in resolving the problem and, in fact, often served to deter women from seeking treatment and pre-natal care, putting infants at even higher risk. Given the federal requirement to provide services to all substance exposed infants and their caregivers and the need for treatment and supportive services, the practice of conducting a “traditional” Child Protection Services assessment and then providing services regardless of the outcome of the assessment would not seem to be a good use of child protection resources and may serve as a detriment to substance exposed infants and their caregivers.

I am available to answer your questions. Thank you.