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HEALTH AND HUMAN SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 194, L.D. 257, Bill, "An Act To Protect Newborns Exposed to Drugs or Alcohol"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 22 MRSA §4002, sub-§5-B is enacted to read:

5-B. Fetal alcohol spectrum disorders. "Fetal alcohol spectrum disorders" means conditions whose effects include having facial characteristics, growth restriction, central nervous system abnormalities or other characteristics consistent with prenatal alcohol exposure identified in a child from birth to 12 months of age.

Sec. 2. 22 MRSA §4004-B, as enacted by PL 2003, c. 673, Pt. Z, §1, is amended to read:

§4004-B. Infants born affected by substance abuse or after prenatal exposure to drugs or with fetal alcohol spectrum disorders

The department shall act to protect infants born identified as being affected by illegal substance abuse or suffering from, demonstrating withdrawal symptoms resulting from prenatal drug exposure, whether or not the prenatal exposure was to legal or illegal drugs, or having fetal alcohol spectrum disorders, regardless of whether or not the infant is abused or neglected. The department shall:

1. Receive notifications. Receive reports notifications of infants who may be affected by illegal substance abuse or suffering from demonstrating withdrawal symptoms resulting from prenatal drug exposure or who have fetal alcohol spectrum disorders;

2. Investigate. Promptly investigate all reports notifications received of infants born who may be affected by illegal substance abuse or suffering from demonstrating withdrawal symptoms resulting from prenatal drug exposure or who have fetal alcohol spectrum disorders as determined to be necessary by the department to protect the infant;

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1 **3. Determine if infant is affected.** Determine whether ~~or not~~ each infant ~~reported~~
2 for whom the department conducts an investigation is affected by illegal substance abuse
3 ~~or suffers from,~~ demonstrates withdrawal symptoms resulting from prenatal drug
4 exposure or has fetal alcohol spectrum disorders;

5 **4. Determine if infant is abused or neglected.** Determine whether ~~or not~~ the infant
6 for whom the department conducts an investigation is abused or neglected and, if so,
7 determine the degree of harm or threatened harm in each case;

8 **5. Develop plan for safe care.** For each infant whom the department determines to
9 be affected by illegal substance abuse ~~or,~~ to be ~~suffering from~~ demonstrating withdrawal
10 symptoms resulting from prenatal drug exposure or to have fetal alcohol spectrum
11 disorders, develop, with the assistance of any health care provider involved in the
12 mother's or the child's medical or mental health care, a plan for the safe care of the infant
13 and, in appropriate cases, refer the child or mother or both to a social service agency or
14 voluntary substance abuse prevention service; and

15 **6. Comply with section 4004.** For each infant whom the department determines to
16 be abused or neglected, comply with section 4004, subsection 2, paragraphs E and F.

17 **Sec. 3. 22 MRSA §4011-B**, as enacted by PL 2003, c. 673, Pt. Z, §5, is amended
18 to read:

19 **§4011-B. Notification of prenatal exposure to drugs or having fetal alcohol**
20 **spectrum disorders**

21 **1. Notification of prenatal exposure to drugs or having fetal alcohol spectrum**
22 **disorders.** A health care provider involved in the delivery or care of an infant who the
23 provider knows or has reasonable cause to suspect has been born affected by illegal
24 substance abuse ~~or,~~ is ~~suffering from~~ demonstrating withdrawal symptoms ~~resulting that~~
25 require medical monitoring or care beyond standard newborn care when those symptoms
26 have resulted from or have likely resulted from prenatal drug exposure, whether ~~or not~~
27 the prenatal exposure was to legal or illegal drugs, or has fetal alcohol spectrum disorders
28 shall notify the department of that condition in the infant. The ~~report~~ notification
29 required by this subsection must be made in the same manner as reports of abuse or
30 neglect required by this subchapter.

31 A. This section, and any notification made pursuant to this section, may not be
32 construed to establish a definition of "abuse" or "neglect."

33 B. This section, and any notification made pursuant to this section, may not be
34 construed to require prosecution for any illegal action, including, but not limited to,
35 the act of exposing a fetus to drugs or other substances.

36 **2. Definition.** For purposes of this section, "health care provider" means a person
37 described in section 4011-A, subsection 1, paragraph A, subparagraphs (1) to (10), (15),
38 (17) to (20) or (22) or any person who assists in the delivery or birth of a child for
39 compensation, including, but not limited to, a midwife.'

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SUMMARY

This amendment is the majority report of the committee and replaces the bill. The amendment amends current law on reporting to the Department of Health and Human Services by a health care provider involved in the delivery or care of an infant with prenatal exposure to drugs as follows:

1. The amendment changes "reports" to the department to "notifications" to the department and changes "suffering from withdrawal symptoms" to "demonstrating withdrawal symptoms that require medical monitoring or care beyond standard newborn care";

2. The amendment repeals the requirement that the department investigate all reports and authorizes the department to investigate as it determines to be necessary to protect an infant for whom the department has received notification; and

3. The amendment defines "fetal alcohol spectrum disorders" and adds it to the conditions of an infant that require notification to the department.

FISCAL NOTE REQUIRED

(See attached)