

HOUSE BILL 424

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Rebecca Dow and Gail Armstrong

AN ACT

RELATING TO CHILDREN; ENACTING THE PREGNANCY AND FAMILY CARE
ACT TO PROVIDE FOR THE SCREENING OF PREGNANT PATIENTS FOR
SUBSTANCE USE DISORDER; PRIORITIZING TREATMENT FOR THOSE
PATIENTS, INCLUDING THE DEVELOPMENT OF FAMILY PLANS OF CARE TO
PROVIDE A RANGE OF SERVICES TO ADDRESS RELATED NEEDS; REQUIRING
THE DEPARTMENT OF HEALTH TO DEVELOP A SYSTEM, DISTINCT FROM THE
SYSTEM USED FOR REPORTING ALLEGATIONS OF CHILD ABUSE AND
NEGLECT, TO REQUIRE HEALTH CARE PROVIDERS TO NOTIFY THE
DEPARTMENT REGARDING THE BIRTH OF SUBSTANCE-EXPOSED INFANTS,
INCLUDING DISAGGREGATED, NON-PERSONAL IDENTIFYING INFORMATION;
REQUIRING HOSPITALS, BIRTHING CENTERS AND OTHER FACILITIES TO
PROVIDE ALL POSTPARTUM PATIENTS WITH INFORMATION REGARDING THE
DEVELOPMENT OF VOLUNTARY FAMILY CARE PLANS; REQUIRING THE
DEPARTMENT TO DEVELOP EDUCATIONAL AND TRAINING MATERIALS FOR
HEALTH CARE PROVIDERS AND OTHERS PROVIDING SERVICES TO PREGNANT

.229923.1

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 AND POSTPARTUM PATIENTS REGARDING FAMILY PLANS OF CARE;
2 ESTABLISHING STATEWIDE AND COUNTY ADVISORY COUNCILS TO PROVIDE
3 RECOMMENDATIONS TO THE DEPARTMENT RELATED TO THE IMPLEMENTATION
4 OF THE PREGNANCY AND FAMILY CARE ACT; PROVIDING FOR REPORTING;
5 REPEALING SECTIONS OF THE CHILDREN'S CODE.

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

8 SECTION 1. A new section of the Children's Code is
9 enacted to read:

10 "[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
11 "Pregnancy and Family Care Act".

12 SECTION 2. A new section of the Children's Code is
13 enacted to read:

14 "[NEW MATERIAL] DEFINITIONS.--As used in the Pregnancy and
15 Family Care Act:

16 A. "department" means the department of health;

17 B. "family care plan" means a plan created by a
18 health care provider or substance use disorder treatment
19 provider for a pregnant or postpartum patient, a substance-
20 exposed infant, a caregiver or a patient's family members to
21 provide a range of services to address substance use disorder
22 treatment, mental health issues, health care needs, parenting
23 skills, child development, education and other related needs;

24 C. "infant" means a child under the age of one
25 year;

.229923.1

underscoring material = new
~~[bracketed material] = delete~~

1 D. "substance-exposed infant" means an infant for
2 whom prenatal substance exposure is indicated and confirmed by
3 a health care provider; and

4 E. "substance use disorder" means a pattern of use
5 of alcohol, cannabis, hallucinogens, opioids, sedatives or
6 other drugs leading to clinical or functional impairment in
7 accordance with the definition in the most recent edition of
8 the *Diagnostic and Statistical Manual of Mental Disorders*."

9 **SECTION 3.** A new section of the Children's Code is
10 enacted to read:

11 "[NEW MATERIAL] PRENATAL SCREENING FOR SUBSTANCE USE
12 DISORDERS--DEVELOPMENT OF FAMILY CARE PLANS.--

13 A. During the first visit with a pregnant patient,
14 a health care provider shall, with the consent of the patient,
15 conduct a written or verbal screening for substance use
16 disorder to determine whether an assessment is required.

17 B. At any point during the treatment of a pregnant
18 patient, a health care provider may, with the consent of the
19 patient, conduct a follow-up screening for substance abuse
20 disorder.

21 C. If a health care provider determines through the
22 screening process that a pregnant patient may have a substance
23 use disorder, the health care provider shall conduct an
24 assessment to determine whether and which treatment or other
25 services are appropriate and refer the patient to another

.229923.1

underscoring material = new
~~[bracketed material] = delete~~

1 health care provider to conduct the assessment.

2 D. If a health care provider conducting an
3 assessment diagnoses a pregnant patient with an untreated
4 substance use disorder, the health care provider shall, with
5 the patient's consent, develop a family care plan."

6 SECTION 4. A new section of the Children's Code is
7 enacted to read:

8 "[NEW MATERIAL] SCREENING AND ASSESSING SUBSTANCE USE
9 DISORDER TREATMENT FOR PREGNANT OR POSTPARTUM PATIENTS.--

10 A. A pregnant or postpartum patient referred to a
11 substance use disorder treatment provider shall be given
12 priority for starting available treatment.

13 B. A substance use disorder treatment provider who
14 receives state or federal funds shall not refuse to treat a
15 patient because the patient is pregnant, postpartum or already
16 receiving medication for substance use disorder.

17 C. A pregnant or postpartum patient who is
18 incarcerated in a state correctional facility or county jail,
19 participating in a court-supervised program or on parole or
20 probation shall receive substance use disorder treatment or
21 continue to receive substance use disorder treatment as
22 recommended by the patient's health care provider.

23 D. A health care provider shall not directly bill a
24 pregnant or postpartum patient for any service related to
25 substance use disorder treatment who has insurance coverage,

.229923.1

underscored material = new
~~[bracketed material] = delete~~

1 unless the health care provider receives a prior authorization
2 rejection, rejection for payment of a claim or denial of
3 coverage from the patient's insurer. A patient may, however,
4 pay a health care provider for services related to substance
5 use disorder at the patient's discretion."

6 SECTION 5. A new section of the Children's Code is
7 enacted to read:

8 "[NEW MATERIAL] NOTIFICATION REQUIREMENTS--PROCESS.--

9 A. No later than October 1, 2025, the department
10 shall establish a system, distinct from the one currently in
11 place at the children, youth and families department for
12 reporting alleged child abuse or neglect, requiring health care
13 providers who deliver or care for a substance-exposed infant to
14 simultaneously notify the department and the hospital, birthing
15 center or facility where the infant was delivered about the
16 birth of a substance-exposed infant, via an online portal or a
17 written form, as prescribed by department rule and consistent
18 with the requirements of the federal Child Abuse Prevention and
19 Treatment Act and the federal Comprehensive Addiction and
20 Recovery Act of 2016, which shall, at a minimum, include the
21 following disaggregated, non-personal identifying information:

22 (1) the zip code of the patient who gave birth
23 to the infant or, if unhoused, the facility where the birth
24 occurred;

25 (2) the race or ethnicity of the patient who

.229923.1

1 gave birth to the infant;

2 (3) whether the birth was pre-term;

3 (4) the substances used by the patient who
4 gave birth to the infant and whether those substances were
5 provided by a health care provider;

6 (5) the substances affecting the infant;

7 (6) whether a family care plan had been
8 established for the patient before giving birth; and

9 (7) whether the health care provider who
10 provided the notification made a separate, concurrent report to
11 the children, youth and families department alleging child
12 abuse or neglect.

13 B. A hospital, birthing center or other facility
14 shall, before discharging any infant, provide to the patient, a
15 caregiver or a family member information regarding the
16 development of a family care plan, including instructions for
17 follow-up.

18 C. Beginning January 1, 2026, a hospital, birthing
19 center or other facility shall provide the department, each
20 quarter, with information regarding the number of patients who
21 have been provided information regarding the development of a
22 family care plan.

23 D. A substance use disorder diagnosis or a prenatal
24 or postnatal toxicology test of the patient or the infant at
25 the time of birth showing the presence of a controlled

.229923.1

1 substance, a prescription drug, a non-prescription drug,
2 alcohol or cannabis shall not, itself, be a sufficient basis to
3 require:

4 (1) a health care provider to make a report to
5 the children, youth and families department of alleged child
6 abuse or neglect;

7 (2) the children, youth and families
8 department to start an investigation of the patient or the
9 patient's family members for alleged child abuse or neglect;

10 (3) the children, youth and families
11 department to remove custody of the infant from the patient or
12 the patient's family members; or

13 (4) a law enforcement agency to start a
14 criminal investigation of the patient or the patient's family
15 members.

16 E. Nothing in this section shall prevent a health
17 care provider from making a report to the children, youth and
18 families department of alleged child abuse or neglect if
19 factors other than substance use by the patient giving birth to
20 the infant are present and may harmfully impact the health or
21 safety of the infant.

22 F. The notification required to be submitted to the
23 department pursuant to this section is confidential and not
24 subject to subpoena, discovery or disclosure pursuant to the
25 Inspection of Public Records Act.

.229923.1

underscored material = new
[bracketed material] = delete

1 G. Nothing in the Pregnancy and Family Care Act
2 shall prevent an agency from obtaining identifying information
3 about a patient or a substance-exposed infant, with the consent
4 of the patient, for the purpose of collaborating with other
5 state agencies, health care providers or other entities for the
6 purpose of providing services to the patient, the infant, the
7 caregiver or family members pursuant to a family care plan."

8 **SECTION 6.** A new section of the Children's Code is
9 enacted to read:

10 "[NEW MATERIAL] FAMILY CARE PLANS--MANAGEMENT--
11 PARTICIPATION.--

12 A. A patient shall select a health care provider, a
13 substance use disorder treatment provider, a community health
14 worker or other person to manage the patient's family care
15 plan.

16 B. Participation in a family care plan by a
17 patient, a caregiver or a patient's family member shall be
18 voluntary. Refusal to participate in a family care plan shall
19 not be a sufficient basis to require:

20 (1) a person to make a report to the children,
21 youth and families department of alleged child abuse or
22 neglect;

23 (2) the children, youth and families
24 department to start an investigation of the patient, the
25 caregiver or the patient's family members for alleged child

.229923.1

underscoring material = new
[bracketed material] = delete

1 abuse or neglect;

2 (3) the children, youth and families
3 department to remove custody of the infant from the patient,
4 the caregiver or the patient's family members; or

5 (4) a law enforcement agency to start a
6 criminal investigation of the patient, the caregiver or the
7 patient's family members.

8 C. A patient who refuses to participate in a family
9 care plan or who terminates participation shall be able to
10 begin or resume participation at any time up to twelve months
11 after giving birth."

12 SECTION 7. A new section of the Children's Code is
13 enacted to read:

14 "[NEW MATERIAL] EDUCATION AND TRAINING MATERIALS FOR
15 SERVICE PROVIDERS AND INFORMATION FOR MEMBERS OF THE PUBLIC.--

16 A. The department, in collaboration with the
17 relevant state agencies and other stakeholders, shall create:

18 (1) educational and training materials to
19 support health care providers, substance use disorder
20 providers, first responders, law enforcement agencies and
21 others providing services to pregnant and postpartum patients
22 and substance-exposed infants, including information regarding:

23 (a) the notification requirements
24 pursuant to Section 5 of the Pregnancy and Family Care Act;

25 (b) distinguishing the circumstances

.229923.1

underscored material = new
~~[bracketed material] = delete~~

1 that require making a report of alleged child abuse or neglect
2 to the children, youth and families department;

3 (c) the development and management
4 family care plans;

5 (d) promoting early intervention;

6 (e) approaches for reducing the stigma
7 associated with substance use disorder; and

8 (f) using trauma-informed techniques
9 when treating patients with substance use disorder; and

10 (2) educational materials for members of the
11 public who may become pregnant and have a substance use
12 disorder, including information regarding:

13 (a) the services available pursuant to
14 the Pregnancy and Family Care Act;

15 (b) the availability of contraceptives
16 and how to obtain them within their community;

17 (c) the prevention and treatment of
18 sexually transmitted infections; and

19 (d) the availability of services
20 providing harm reduction programs within their community.

21 B. The department shall make the educational
22 materials created pursuant to Paragraph (2) of Subsection A of
23 this section available by:

24 (1) posting the educational materials on the
25 department's website; and

.229923.1

underscored material = new
~~[bracketed material] = delete~~

1 (2) providing the educational materials, at no
2 cost, to entities that provide services to people who have
3 substance use disorders or are pregnant, postpartum or
4 parenting."

5 **SECTION 8.** A new section of the Children's Code is
6 enacted to read:

7 "[NEW MATERIAL] STATEWIDE PERINATAL ADVISORY COUNCIL--
8 MEMBERSHIP--APPOINTMENT--DUTIES.--

9 A. The "statewide perinatal advisory council" is
10 established and is administratively attached to the department.

11 B. The statewide perinatal advisory council shall
12 hold the first meeting no later than September 1, 2025 and
13 thereafter shall meet at least quarterly at the call of the
14 chair.

15 C. The statewide perinatal advisory council
16 consists of fifteen members who shall be residents of the state
17 and appointed by and serve at the pleasure of the secretary of
18 health.

19 D. Members shall include:
20 (1) the secretary of health or the secretary's
21 designee, who shall serve as chair of the council;
22 (2) the secretary of children, youth and
23 families or the secretary's designee;
24 (3) the secretary of early childhood education
25 and care or the secretary's designee;

.229923.1

underscoring material = new
~~[bracketed material] = delete~~

1 (4) the secretary of health care authority or
2 the secretary's designee;

3 (5) a representative of the administrative
4 office of the courts;

5 (6) a representative of law enforcement
6 officers; and

7 (7) nine members from diverse linguistic and
8 cultural backgrounds and varied geographic regions, at least
9 six of whom shall be providers of services related to treating
10 pregnant and postpartum patients for substance use disorder and
11 promoting positive pregnancy- and postpartum-related health
12 outcomes, and at least three of whom shall be parents with
13 lived experience regarding substance use disorder appointed by
14 the secretary.

15 E. The secretary of health shall endeavor to
16 appoint members from underserved communities.

17 F. Non-state employee members may receive per diem
18 and mileage pursuant to the Per Diem and Mileage Act.

19 G. The secretary of health shall adopt and
20 promulgate rules for the conduct of meetings.

21 H. Members appointed pursuant to Paragraphs (5)
22 through (7) of Subsection E of this section shall be appointed
23 to serve an initial two-year term. A member vacancy shall be
24 filled in the same manner as the original appointment, and the
25 newly appointed individual shall serve out the remainder of the

.229923.1

underscoring material = new
~~[bracketed material] = delete~~

1 term.

2 I. No later than September 1, 2026, and annually
3 thereafter, the statewide perinatal advisory council shall
4 provide a report to the department containing information and
5 recommendations regarding perinatal substance use disorder,
6 including:

7 (1) models that emphasize coordination of
8 substance use disorder treatment services with other services
9 that address health care, child welfare and child development
10 needs;

11 (2) improvement of coordinated responses by
12 state agencies, including workforce development in underserved
13 areas;

14 (3) racial or ethnic disparities regarding
15 access to substance use disorder treatment, involvement with
16 the criminal justice system and involvement with child
17 protective services;

18 (4) promotion of the distribution of the
19 educational and training materials developed pursuant to
20 Section 7 of the Pregnancy and Family Care Act;

21 (5) communication with policymakers at the
22 state and federal levels regarding the prevention and treatment
23 needs of pregnant and postpartum patients with substance use
24 disorder and the patients' children;

25 (6) allocation of resources where needed;

.229923.1

underscored material = new
[bracketed material] = delete

1 (7) coordination with the local councils
2 established pursuant to Section 9 of the Pregnancy and Family
3 Care Act to address the perinatal substance use disorder issues
4 in each county; and

5 (8) any other duties determined by the
6 department."

7 SECTION 9. A new section of the Children's Code is
8 enacted to read:

9 "[NEW MATERIAL] COUNTY PERINATAL ADVISORY COUNCILS--
10 MEMBERSHIP--APPOINTMENT--DUTIES.--

11 A. The department, in conjunction with each board
12 of county commissioners or tribal leadership, shall establish
13 county perinatal coordinating councils for each county, or
14 group of counties where resources are limited.

15 B. Each county perinatal coordinating council shall
16 hold its first meeting no later than September 1, 2025, and
17 thereafter shall meet at least quarterly at the call of the
18 chair.

19 C. Each county perinatal coordinating council
20 shall, to the extent possible, consist of members who are
21 residents of the county or group of counties who provide
22 services to residents of the county and shall serve at the
23 pleasure of the chair.

24 D. Members shall include:

25 (1) a member of the board of county

.229923.1

underscoring material = new
~~[bracketed material] = delete~~

1 commissioners or tribal leadership, appointed by the secretary,
2 who shall serve as the chair;

3 (2) a representative from the county's
4 department of health office or a member of the county health
5 council or tribal health council, appointed by the director of
6 the office or the secretary;

7 (3) a representative from the county's
8 children, youth and families department office, appointed by
9 the secretary of children, youth and families;

10 (4) a person with knowledge of prenatal and
11 child health services available in the county, appointed by the
12 director of the county's department of health office or the
13 secretary;

14 (5) a person with knowledge of outreach and
15 intervention services available in the county, appointed by the
16 director of the county's department of health office;

17 (6) a person with knowledge of early
18 intervention services available in the county, appointed by the
19 director of the county's early childhood and education and care
20 department office or the secretary of early childhood education
21 and care;

22 (7) a substance use disorder treatment
23 provider with experience treating pregnant patients with
24 substance use disorder in the county, appointed by the New
25 Mexico medical board;

.229923.1

underscoring material = new
~~[bracketed material] = delete~~

1 (8) a representative from a community
2 organization in the county that focuses on equitable access to
3 health care, appointed by the chair;

4 (9) a parent residing in the county with lived
5 experience of substance use disorder while pregnant, appointed
6 by the director of the county's department of health office or
7 the secretary; and

8 (10) a county law enforcement officer or
9 district attorney, appointed by the county law enforcement
10 agency or district attorney.

11 E. Members of county perinatal coordinating
12 councils shall serve an initial two-year term. In the event of
13 a vacancy in council membership, the vacancy shall be filled
14 in the same manner as the original appointment, and the newly
15 appointed individual shall serve out the remainder of the term.

16 F. Non-state employee members may receive per diem
17 and mileage pursuant to the Per Diem and Mileage Act.

18 G. The chair of the council shall adopt and
19 promulgate rules for the conduct of meetings.

20 H. All members shall be appointed to serve an
21 initial two-year term. A member vacancy shall be filled in the
22 same manner as the original appointment, and the newly
23 appointed individual shall serve out the remainder of the term.

24 I. No later than July 1, 2026 and annually
25 thereafter, each county perinatal advisory council shall

.229923.1

underscoring material = new
~~[bracketed material] = delete~~

1 provide a report to the statewide perinatal advisory council
2 containing information about the perinatal substance use
3 disorder problem in the county or counties served by the
4 council, including recommendations regarding:

5 (1) models for new coordinated responses by
6 state agencies, including workforce development in underserved
7 areas;

8 (2) the impact of racial or ethnic disparities
9 regarding access to substance use disorder treatment,
10 involvement with the criminal justice system and involvement
11 with child protective services;

12 (3) the distribution within the county of the
13 educational and training materials developed pursuant to
14 Section 7 of the Pregnancy and Family Care Act;

15 (4) communication with policymakers at the
16 state and federal levels regarding the prevention and treatment
17 needs of pregnant and postpartum patients with substance use
18 disorder and their children;

19 (5) allocation of additional resources where
20 needed;

21 (6) collaboration and coordination with the
22 statewide perinatal advisory council established pursuant to
23 Section 8 of the Pregnancy and Family Care Act to address the
24 perinatal substance use disorder issues in the county; and

25 (7) any other duties determined by the chair."

.229923.1

underscoring material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SECTION 10. A new section of the Children's Code is enacted to read:

"[NEW MATERIAL] REPORTING.--No later than November 1, 2026 and annually thereafter, the department shall provide a report to the legislative finance committee, the interim legislative health and human services committee, the interim legislative committee that studies courts, corrections and justice and the governor containing information and recommendations regarding perinatal substance use disorder."

SECTION 11. REPEAL.--Sections 32A-3A-13 and 32A-3A-14 NMSA 1978 (being Laws 2019, Chapter 190, Sections 3 and 4) are repealed.