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**FISCAL IMPACT STATEMENT**

**LS 7281**

**BILL NUMBER:** HB 1447

**NOTE PREPARED:** Jan 18, 2011

**BILL AMENDED:**

**SUBJECT:** Maternal and Newborn Drug Screening.

**FIRST AUTHOR:** Rep. Cheatham

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State

**Summary of Legislation:** This bill has the following provisions:

- (1) Establishes a maternal and newborn drug screening protocol to standardize testing of: (a) maternal patients for drug use during pregnancy; and (b) drug impaired newborns.
- (2) Establishes the purposes of the drug screening protocol.
- (3) Lists factors for a physician to consider in deciding whether to order maternal or newborn drug testing.
- (4) Specifies that no single indicator justifies maternal or newborn drug testing and that the decision to order the testing must be based on the physician's best medical judgment after considering the totality of the circumstances.
- (5) Requires the Department of Child Services (DCS) to do the following: (a) Develop procedures for child abuse and neglect investigations involving drug impaired fetuses and newborns. (b) Implement a plan to establish response teams for drug impaired fetuses and newborns throughout Indiana.
- (6) Provides that whenever a child abuse or neglect case involves a drug impaired fetus or newborn, the County Office of Family and Children shall require the mother of the fetus or newborn to participate in a substance abuse treatment plan.
- (7) Requires the response team for drug impaired infants to meet on a regular basis to: (a) review the status of the treatment plan and the progress of the family; and (b) recommend changes, if any.
- (8) Requires the County Office of Family and Children to file a child in need of services (CHINS) petition if the mother refuses to voluntarily cooperate with the treatment plan.

**Effective Date:** July 1, 2011.

**Explanation of State Expenditures:** *Summary:* This bill is expected to have an indeterminable impact on

DCS expenditures. The bill may also increase the workload of the Indiana State Department of Health (ISDH) to redesign existing prevention and management programs as well as protocols for maternal and newborn drug screening in compliance with requirements of the bill. This bill may also increase Medicaid expenditures for drug testing and substance abuse treatment services for expectant and new mothers.

*Additional Information:*

*Department of Child Services:* The bill requires the DCS to (1) develop procedures to be followed in child abuse and neglect cases involving drug-impaired fetuses and newborns and (2) implement a plan to establish a response team for drug-impaired fetuses and newborns throughout Indiana.

The DCS currently does not have any policies or guidelines regarding services for fetuses as they currently do not have statutory authority to act on matters pertaining to fetuses.

The bill also requires physicians who substantiate an expectant mother, new mother, or newborn is under the influence of illegal substances to contact the county Office of Family and Children. (References to the county Office of Family and Children in the bill are assumed in this note to refer to the Department of Child Services). Currently, positive infant drug screens are reported to DCS through the Indiana Child Abuse Hotline.

If contacted by a physician, a county office of DCS may contact the response team for drug-impaired fetuses and newborns and schedule an immediate meeting to take steps necessary and reasonable to protect the health and welfare of the fetus or newborn and effectuate substance abuse treatment for the mother and other household members. The DCS is required to file a CHINS petition with the local court if a mother refuses to voluntarily cooperate with the recommended treatment plan.

The bill is silent on who bears the responsibility for the costs of the expectant or new mother's substance abuse treatment. To the extent private insurance is not billed for treatment services or the services are not paid by user fees, it is assumed Medicaid expenditures, Maternal & Child Health Block Grant services, or DCS expenditures will increase. Actual increases in expenditures will depend on the duration and cost of treatment services and the extent to which services may currently be provided.

Further, the bill requires the response team to meet on a regular basis to review the status of the treatment plan, review the mother's progress, and recommend any necessary changes. The bill is silent on response team membership, if any state or local governing body has purview over the response team, and the duration of a drug testing program.

Filing a CHINS petition for mothers of newborns who do not comply with the requirements of the substance abuse treatment plan is within the scope of current DCS duties. However, filing a CHINS petition for a fetus is not within the scope of current DCS duties, and will therefore increase the workload of DCS.

*Medicaid:* This bill will allow physicians to drug test both expectant mothers and new mothers and their babies if the physician, in his or her best judgment, believes the mother is under the influence of illegal substances. This provision should have no fiscal impact since drug testing may already be done by a physician who suspects drug use. Currently, the state appropriates General Fund money to provide for drug testing for drug-afflicted infants. The incidence of the drug testing has been so high that ISDH uses Title V Block Grant funds to supplement the state appropriation.

It is assumed that the costs of providing drug tests to expectant and new mothers in a hospital setting will be billed either to private insurance companies or Medicaid or be paid privately. Expectant mothers are considered presumptively eligible for Medicaid so long as they are pregnant, have a gross family income less than 200% of the federal poverty level (FPL), are state residents, not incarcerated, and a U.S. citizen or qualified noncitizen. New mothers maintain Medicaid eligibility two months after giving birth or until released by their physician; infants maintain eligibility for at least the first year of life.

FSSA reported 42,746 live births reimbursed by Medicaid, or approximately 48.2% of the 88,743 births recorded in the state for 2008 (the most recent statistic available). Medicaid reported about 63,000 pregnant women were enrolled in Medicaid during FY 2010. The incidence of illegal drug use by Medicaid-eligible mothers is not known at this time.

To the extent that testing or treatment may not currently be performed and expectant and new mothers would be drug tested and referred to treatment with services subsequently reimbursed by Medicaid, state expenditures will increase. Medicaid is jointly funded by the state and federal governments. The effective state share of program expenditures is approximately 34% for most services. Medicaid medical services are matched by the effective federal match rate (FMAP) in Indiana at approximately 66%. Administrative expenditures with certain exceptions are matched at the federal rate of 50%. Federal ARRA enhanced Medicaid stimulus funding will be available to the state until June 30, 2011.

**Explanation of State Revenues:** See *Explanation of State Expenditures* for Medicaid impact.

**Explanation of Local Expenditures:** This bill will increase court workload to hear CHINS petitions for expectant mothers and new mothers who do not comply with recommended substance abuse treatment programs. Actual increases in court workload are indeterminable.

**Explanation of Local Revenues:**

**State Agencies Affected:** DCS, ISDH, OMPP.

**Local Agencies Affected:** Local courts, response teams for drug impaired fetuses and newborns.

**Information Sources:** Kaiser Family Foundation; Indiana Birth Statistics; Brady Brookes, DCS; OMPP Provider Bulletin from April 30, 2009.

*Alcohol, Tobacco, and Drug Use By Pregnant Women in Indiana, A Study for the Indiana State Department of Health*, September 25, 2006, Indiana University School of Medicine, Bowen Research Center at: <http://www.in.gov/isdh/files/Alocoholtobaccoanddrugusefinalreport102506.pdf>.; *Maternal & Child Health Services, Title V Block Grant, State Narrative for Indiana, Application for 2008, Final Report for 2006*, at:<http://www.in.gov/isdh/files/2008titlevnarratives.pdf> (See Pages 19- 21, for screening, prevention, and treatment activities).

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