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We Want Pregnant Women Who Are Using Drugs to Seek Out Treatment and Prenatal Care

Effective treatment programs are available, but moms avoid seeking help because they are afraid of losing their children to CPS.

When a Texas woman is using drugs and realizes she is pregnant, she should seek treatment and see a doctor to begin prenatal care. However, they are often afraid to do so.



Under Texas law, when moms test positive for drugs or disclose substance use to their health care provider, they must immediately report them to CPS. We have interviewed Texas mothers who explained that fear of CPS kept them from speaking to their doctor or seeking treatment. The data confirm their fears. In 2025, Texas had the third-highest percentage of children in foster care whose removal from home involved parental substance use as a factor.[1]

Health care providers should be able to refer moms to substance use treatment programs supported by the HHSC that are required under federal law to prioritize pregnant women for admission.[2]

This fear of CPS has significant consequences for moms and babies.

- **Accidental drug poisoning — the leading cause of maternal death in Texas.** From 2020 to 2023, drug poisoning was the leading cause of confirmed maternal deaths from pregnancy through one year postpartum, accounting for nearly 1 in 5 deaths.[3] The state's 2026 Maternal Morbidity and Mortality report underscores opportunities for prevention, finding that 92% of pregnancy-related deaths due to maternal mental health conditions in 2021 and 2024 were preventable.[4]

- **Delayed treatment for substance use — requiring more expensive care.** Untreated substance use can result in hospitalization, inpatient care far from home, productivity and workforce loss, and foster care costs.

- **Late or no prenatal care — risking the health of babies and moms.** Not only are moms afraid to seek drug treatment; they also fear that seeing a medical provider will trigger a call to CPS.[5]

When CPS does remove children based solely on parental substance use, it creates significant consequences.

For moms, the extreme despair from the loss of their children can disrupt recovery efforts and increase the risk of a deadly overdose. Family separations can also contribute to lasting trauma for parents and kids.[6]

Unfortunately, these unnecessary removals can include:

- Moms who test positive before they knew they were pregnant and can stop using on their own.
- Moms taking medications as prescribed.
- Moms who can stop using alcohol or drugs with treatment and support.
- Moms who have not neglected nor abused their children.
- Moms who falsely test positive due to medications prescribed during labor and delivery.

Our proposal to the Legislature:

1. Ensure safeguards are still in place to protect children.

- All mandatory reporters and other Texans can still contact CPS anytime they have concerns.
- CPS can still investigate any cases that include parental substance use.
- CPS can still remove children if they are in danger due to parental substance use or other factors.
- Parental rights can still be terminated if children are in danger.

2. Modify the mandatory reporting requirements for health care professionals in these cases.

They would **not be required** to report to CPS if all three of these conditions are met:

- They do **not** have concerns about the safety of a child.
- The mother provides documentation within 10 days that she has begun substance use treatment, is on a waitlist to enter treatment, or has recently completed treatment.
- The mother is pregnant or has a baby under 12 months of age.

In 2025, the House Judiciary & Civil Jurisprudence Committee passed a similar bill (HB 330) for pregnant women. It was placed on the House Calendar, but not in time for a vote before the House bill deadline.

3. Add parental substance use to the state's list of conditions that do not qualify on their own as abuse or neglect.

State law clarifies that certain situations — homeschooling, parents' use of marijuana, and more — are not abuse and neglect if there are no other concerns about children's safety. Updating that list to include a positive drug test or disclosure of substance use would ensure children are not removed from their homes based solely on those facts, but it would still allow for removals if there are risks to children's safety.

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1. Center for Children and Family Futures. (2026). *Parental Alcohol or Drug Abuse as a Circumstance Reported at Removal by State, 2025*. Based on analyses of the 2025 Adoption and Foster Care Analysis and Reporting System (AFCARS), National Data Archive on Child Abuse and Neglect (NDACAN), file no. 312.

2. Treatment services for pregnant women, 45 C.F.R. 96.131

3. Texas Department of State Health Services. *Maternal Health Dashboard* (Maternal Death Causes and Timing tab). Texas Center for Health Statistics. Data from 2016–2023 death files and 2015–2023 live birth and fetal death files.

4. Texas Maternal Mortality and Morbidity Review Committee and Texas Department of State Health Services (2026). *Joint Biennial Report*.

5. Roberts, S.C., & Pies, C. (2011). Complex calculations: How drug use during pregnancy becomes a barrier to prenatal care. *Maternal and Child Health Journal, 15*(3), 333–341.

6. Dorfman, S., Sommer, A. R., Caiazzo, A.J., Ngassa, Y., Gray, J.R., & Schiff, D.M. (2026). Creating a path from crisis to care and connection: Perspectives on child removal and family separation from parental substance use. Child Maltreatment, 31(3), 529–538.